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 8

9 **UNITED STATES DISTRICT COURT**  
 10 **NORTHERN DISTRICT OF CALIFORNIA**

11 HAROLD JONES, individually and on  
 12 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 CERTIFIEDSAFETY, INC., ANDEAVOR  
 F/K/A TESORO CORPORATION, and  
 16 TESORO REFINING & MARKETING  
 COMPANY LLC,

17 Defendants.

18 Case No. \_\_\_\_\_

19 **CLASS AND COLLECTIVE ACTION**  
 20 **COMPLAINT**

- 21 (1) **Violations of the Fair Labor Standards Act**  
 (29 U.S.C. §§ 201 *et seq.*)
- 22 (2) **Failure to Pay for All Hours Worked (Cal.**  
**Labor Code § 204);**
- 23 (3) **Failure to Pay Minimum Wage &**  
**Liquidated Damages (Labor Code §§**  
**1182.11, 1182.12, 1194.1197, and 1197.1)**
- 24 (4) **Failure to Pay Overtime Wages (Cal. Labor**  
**Code § 510);**
- 25 (5) **Failure to Authorize and Permit and/or**  
**Make Available Meal and Rest Periods (Cal.**  
**Labor Code §§ 226.7 and 512);**
- 26 (6) **Failure to Reimburse for Necessary**  
**Business Expenditures (Cal. Labor Code §**  
**2802);**
- 27 (7) **Failure to Provide Timely and Accurate**  
**Itemized Wage Statements (Cal. Labor**  
**Code § 226);**
- 28 (8) **Waiting Time Penalties (Cal. Labor Code §§**  
**201-203);**
- (9) **Failure to Pay Minimum Wage (RCW**  
**49.46.090, RCW 49.12.150);**
- (10) **Failure to Pay Overtime Wages (RCW**  
**49.46.130);**
- (11) **Failure to Authorize and Permit and/or**  
**Make Available Meal and Rest Periods**  
**(RCW 49.12.020);**
- (12) **Failure to Pay Unpaid Wages on**  
**Termination (RCW 49.48);**

- (13) Willing Refusal to Pay Wages (RCW 49.52.050);
- (14) Violations of the Washington's Consumer Protection Act (RCW 19.86);
- (15) Failure to Pay Minimum Wage (Minn. Stat. §§ 177.21 *et seq.*);
- (16) Failure to Pay Overtime Wages (Minn. Stat. §§ 177.21 *et seq.*);
- (17) Failure to Pay for All Hours Worked (Minn. Stat. § 181.14);
- (18) Unpaid Wages on Termination (Minn. Stat. § 181.14);
- (19) Failure to Keep Accurate Payroll Records (Minn. Stat. § 177.30);
- (20) Unlawful Business Practices (Cal. Bus. & Prof. Code §§ 17200 *et seq.*);
- (21) Penalties Pursuant to § 2699(a) of the California Private Attorneys General Act; and
- (22) Penalties Pursuant to § 2699(f) of the California Private Attorneys General Act

**DEMAND FOR JURY TRIAL**

## **CLASS AND COLLECTIVE ACTION COMPLAINT**

Plaintiff Harold Jones (“Jones” or “Plaintiff”), on behalf of himself and all others similarly situated, complains and alleges as follows:

## **INTRODUCTION**

5       1. Plaintiff brings this class and collective action on behalf of himself and other  
6 similarly situated individuals who have worked for CertifiedSafety, Inc. (“CertifiedSafety”),  
7 Andeavor f/k/a Tesoro Corporation, and Tesoro Refining & Marketing Company LLC  
8 (collectively, “Tesoro;” CertifiedSafety and Tesoro are collectively referred to as “Defendants”) as  
9 non-exempt, hourly employees, including Safety Attendants and Safety Foremen. CertifiedSafety  
10 and Tesoro employ Plaintiff and putative Class and Collective members as joint employers. Plaintiff  
11 challenges CertifiedSafety’s and Tesoro’s violations of the Fair Labor Standards Act, 29 U.S.C. §§  
12 201, *et seq.* (“FLSA”) and California, Washington, and Minnesota wage and hour laws.

13 2. This is a class action against Defendants to challenge their policies and practices of:  
14 (1) failing to compensate Plaintiff and putative Class and Collective members for all hours worked;  
15 (2) failing to pay Plaintiff and putative Class and Collective members minimum wage for all hours  
16 worked; (3) failing to pay Plaintiff and putative Class and Collective members overtime and double  
17 time wages; (4) failing to authorize and permit Plaintiff and the putative Class members to take  
18 meal and rest breaks to which they are entitled by law and pay premium compensation for missed  
19 breaks; (5) failing to reimburse Plaintiff and putative Class and Collective members for necessary  
20 business expenditures; (6) failing to provide Plaintiff and putative Class members accurate itemized  
21 wage statements; and (7) failing to timely pay Plaintiff and putative Class members wages upon the  
22 termination of employment.

23       3. Plaintiff and members of the putative Class and Collective are current and former  
24 non-exempt, hourly Safety Attendants and Safety Foremen, who worked for Defendants throughout  
25 the United States, including but not limited to California, Washington, and Minnesota. These  
26 employees provide support for Defendants' operations, including but not limited to safety

1 supporting operations and protocols, and identifying, mitigating, and reporting potential safety  
 2 hazards at Defendants' worksites.

3       4. Plaintiff and putative Class and Collective members work long hours. Plaintiff and  
 4 putative Class and Collective members are regularly scheduled to work, and in fact work, twelve  
 5 hour shifts for seven or more consecutive days. Beyond the scheduled hours for which Plaintiff  
 6 and putative Class and Collective members are scheduled to work, Plaintiff and putative Class and  
 7 Collective members are also required to work before and after scheduled shifts, without  
 8 compensation. Additionally, Plaintiff and putative Class and Collective members are required to  
 9 attend day-long or multi-day training sessions, and are not compensated for their time spent in these  
 10 trainings or for their time traveling to the training sites.

11       5. Defendants assign Plaintiff and putative Class and Collective members to work at  
 12 specific refineries for periods ranging up to several months. Defendants initiate contact and enter  
 13 into employment agreements with Class and Collective members in their home states, including  
 14 California, to arrange the assignments and related training. This is true even for assignments outside  
 15 Class and Collective members' home states.

16       6. CertifiedSafety and Tesoro jointly require Plaintiff and putative Class and Collective  
 17 members to attend training in California. Putative Class and Collective members are required to  
 18 attend training in the State of California before job assignments, even when the job assignment was  
 19 to take place outside the State of California. The pre-assignment training is controlled, dictated,  
 20 and conducted by the particular refinery, including Tesoro, can last up to an entire day, and is  
 21 required by Defendants. Moreover, CertifiedSafety and Tesoro jointly negotiated and consummated  
 22 employment agreements with Plaintiffs within the State of California for each assignment. On this  
 23 basis, an employment relationship exists in California between Plaintiff, putative California Class  
 24 members, and Defendants. Defendants, however, do not compensate Class and Collective members  
 25 for all of their time spent in pre-assignment training, or the time it takes Class and Collective  
 26 members to travel to training sessions.

27  
 28

1       7. Following pre-assignment training, Plaintiff and putative Class and Collective  
 2 members travel to work locations at the designated refinery, often far from home and out of state,  
 3 without adequate reimbursement. Defendants set the terms for this inadequate reimbursement.

4       8. Once Plaintiff, Class, and Collective members report to and begin their work  
 5 assignments, Plaintiff and putative Class and Collective members are not paid minimum wage for  
 6 all hours worked, overtime rates or double time rates, as appropriate, for all hours worked above  
 7 eight per day and forty per week. Plaintiff and putative Class and Collective members are also  
 8 routinely denied meal and rest periods. Plaintiff and putative Class and Collective members do not  
 9 receive accurate, itemized wage statements reflecting the hours they actually work and the amount  
 10 of wages and overtime to which they are entitled and for which they should be compensated. Nor  
 11 are Plaintiff and putative Class and Collective members paid all amounts owed following voluntary  
 12 or involuntary termination of employment.

13       9. Plaintiff and putative Class and Collective members must also pay work expenses out  
 14 of pocket, without adequate reimbursement. For example, Plaintiff and the putative Class and  
 15 Collective are not reimbursed for tools and protective gear necessary to safely complete their jobs.  
 16 Further, while Plaintiff and putative Class and Collective members may receive a per diem to  
 17 mitigate the cost of lodging and other work related expenses when working at refinery sites far from  
 18 home, the amount allocated is regularly insufficient to cover all these expenses. Plaintiff and Class  
 19 and Collective members are not adequately compensated for travel expenses to and from worksites.

20       10. As a result of these violations, Plaintiff seeks compensation, damages, penalties, and  
 21 interest to the full extent permitted by the FLSA, as well as the wage, hour, labor, and other  
 22 applicable laws of the States of California, Washington, and Minnesota, as described herein.

23       11. Plaintiff seeks full compensation on behalf of himself and all others similarly situated  
 24 for all unpaid wages, including overtime and double time, all denied meal and rest periods,  
 25 unreimbursed business expenses, inaccurate wage statement penalties, waiting time penalties, and  
 26 penalties under the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

27       12. Plaintiff also seeks declaratory, equitable, and injunctive relief, including restitution.

1       13. Finally, Plaintiff seeks reasonable attorneys' fees and costs under the FLSA and  
2 applicable laws of the States of California, Washington, and Minnesota, as described herein.

## **PARTIES**

4 14. Plaintiff and putative Class and Collective members are current and former Safety  
5 Attendants and Safety Foremen who work for Defendants throughout the United States, including  
6 but not limited to the States of California, Washington, and Minnesota.

7 15. Plaintiff is an individual over the age of eighteen, and at all times mentioned in this  
8 Complaint was a resident of the State of California. Plaintiff was employed by CertifiedSafety as  
9 a Safety Attendant from 2011 to the 2017.

10        16. Plaintiff is informed, believes, and alleges that CertifiedSafety is an American  
11 company that provides skilled safety personnel to clients operating oil refineries. CertifiedSafety  
12 provides services to clients with oil refineries throughout the United States, including California,  
13 Washington, and Minnesota. CertifiedSafety maintains its headquarters in League City, Texas, and  
14 does business throughout California, Washington, and Minnesota. Plaintiff is further informed,  
15 believe, and thereon alleges that CertifiedSafety employs hourly, non-exempt Safety Attendants  
16 and Safety Foreman throughout the United States, including in California, Washington, and  
17 Minnesota.

18       17. Plaintiff is informed, believes, and alleges that Defendant Andeavor f/k/a Tesoro  
19 Corporation is an American corporation that refines and markets petroleum products. On  
20 information and belief, Andeavor f/k/a Tesoro Corporation operates oil refineries in California,  
21 Washington, Alaska, Minnesota, and the United States, where Plaintiff and the putative Class and  
22 Collective members work in safety roles. Andeavor f/k/a Tesoro Corporation maintains its  
23 headquarters in San Antonio, Texas, and does business in California, Washington, and Minnesota.  
24 Plaintiff worked for CertifiedSafety and Andeavor f/k/a Tesoro Corporation as joint employers at  
25 one or more Andeavor/Tesoro refineries in California in approximately June 2017. Plaintiff worked  
26 for CertifiedSafety and Andeavor f/k/a Tesoro Corporation as joint employers at one or more  
27 Andeavor/Tesoro refineries in Washington from approximately March 2015 to April 2015. Plaintiff

1 worked for CertifiedSafety and Andeavor f/k/a Tesoro Corporation as joint employers at one or  
2 more refineries in Minnesota now owned by Andeavor/Tesoro from approximately September 2016  
3 to October 2016.

4 18. Plaintiff is informed, believes, and alleges that Defendant Tesoro Refining &  
5 Marketing Company LLC is an American company that refines and markets petroleum products.  
6 On information and belief, Tesoro Refining & Marketing Company LLC is a related entity to  
7 Andeavor f/k/a Tesoro Corporation. On information and belief, Tesoro Refining & Marketing  
8 Company LLC operates oil refineries in California, Washington, Minnesota, and the United States,  
9 where Plaintiff and the putative Class and Collective members work in safety roles. Tesoro Refining  
10 & Marketing Company LLC maintains its headquarters in San Antonio, Texas, and does business  
11 in California, Washington, and Minnesota. Plaintiff worked for CertifiedSafety and Tesoro  
12 Refining & Marketing Company LLC as joint employers at one or more Andeavor/Tesoro refineries  
13 in California in approximately June 2017. Plaintiff worked for CertifiedSafety and Tesoro Refining  
14 & Marketing Company LLC as joint employers at one or more Andeavor/Tesoro refineries in  
15 Washington from approximately March 2015 to April 2015. Plaintiff worked for CertifiedSafety  
16 and Tesoro Refining & Marketing Company LLC as joint employers at one or more refineries in  
17 Minnesota now owned by Andeavor/Tesoro from approximately September 2016 to October 2016.

18        19. At all relevant times, Defendants have done business under the laws of the United  
19 States, including California, Washington, and Minnesota, as well as within this judicial district.  
20 Defendants, and each of them, have employed Plaintiff and putative Class and Collective members  
21 in California, and within in this judicial district. At all relevant times, Defendants have been  
22 Plaintiff's "employer" within the meaning of the FLSA, and California, Washington, and  
23 Minnesota law.

## JOINT EMPLOYER ALLEGATIONS

25        20. Plaintiff is informed and believes that CertifiedSafety and Tesoro are or were the joint  
26 employers of Plaintiff and members of the putative Classes and Collective for purposes of this  
27 action under the FLSA, and California, Washington, and Minnesota wage and hour laws.

1       21. Beginning with training, Tesoro and CertifiedSafety jointly require members of the  
 2 Classes and Collective to attend mandatory, uncompensated training in the member's home state.  
 3 Defendants jointly control, dictate, and conduct this training. Plaintiff was required to attend  
 4 mandatory, uncompensated training for one more Defendants in the State of California.

5       22. Following training, Defendants control the day-to-day work experiences for these  
 6 workers. Plaintiff and members of the Classes and Collective are typically assigned for extended  
 7 periods to particular refineries, including Tesoro (up to several months), where they work closely  
 8 with and under the supervision of refineries' employees.

9       23. When Plaintiff and members of the putative Classes and Collective work at a  
 10 particular oil refinery, they are employed by CertifiedSafety and the company or companies that  
 11 own(s) and/or operate(s) the refinery as joint employers, including Tesoro. For example, when  
 12 Plaintiff worked at the Tesoro Anacortes Refinery in Anacortes, Washington, he was jointly  
 13 employed by CertifiedSafety and Tesoro.

14       24. Plaintiff is informed and believes that the acts and omissions alleged herein were  
 15 performed by, and/or attributable to, CertifiedSafety and Tesoro each acting as agents and/or  
 16 employees, and/or under the direction and control of each of the other, and that said acts and failures  
 17 to act were within the course and scope of said agency, employment and/or direction and control.

18       25. Plaintiff is informed and believes, and thereon alleges, that Tesoro controls and/or  
 19 supervises, directly and/or indirectly, the work of Plaintiff and members of the putative Classes and  
 20 Collective.

21       26. Specifically, CertifiedSafety's refinery clients, including Tesoro: (1) determine the  
 22 job duties to be performed by Plaintiff and members of the putative Classes and Collective; (2)  
 23 determine the work schedules and shifts for Plaintiff and members of the putative Classes and  
 24 Collective; (3) determine the safety procedures followed by Plaintiff and members of the putative  
 25 Classes and Collective; (4) maintain a timekeeping process and track the working hours of Plaintiff  
 26 and members of the putative Classes and Collective; (5) set the rate of pay for Plaintiff and members  
 27 of the putative Classes and Collective working at the oil refinery locations; (6) make all decisions

1 concerning reimbursement for travel costs and per diems to Plaintiff and members of the putative  
 2 Classes and Collective; (7) set the budget of labor hours for each project; (8) conduct all pre-project  
 3 training for each work assignment; and (9) make the decision to withhold compensation time spent  
 4 in mandatory training.

5       27. CertifiedSafety's refinery clients, including Tesoro, direct and monitor every aspect  
 6 of the daily work of Plaintiff and members of the putative Classes and Collective, including the job  
 7 duties and scope of jobs. The refineries, including Tesoro, control day-to-day activities, specifying  
 8 how each particular task is to be performed. The refineries, including Tesoro, dictate exact  
 9 procedures and protocols for each job assignment, including but not limited to fire watching  
 10 (monitoring welding with a fire extinguisher or water hose to mitigate fire hazards), traffic flagging,  
 11 and hole watching (ensuring the safety of a co-worker in a confined space), and specify and provide  
 12 the equipment that is to be used. The refineries, including Tesoro, set the paperwork requirements  
 13 that must be completed to document each task. The refineries, including Tesoro, make specific work  
 14 assignments for each member of the putative Classes and Collective, dictating which task(s) they  
 15 will complete and where they will work at the refinery sites. The refineries, including Tesoro,  
 16 dictate where Plaintiff and members of the putative Classes and Collective must park their vehicles  
 17 when they arrive at the refinery, where they must enter the refinery, and where and when they must  
 18 use a shuttle to travel around the refinery.

19       28. Upon information and belief, CertifiedSafety's refinery clients, including Tesoro,  
 20 also require Plaintiff and members of the putative Classes and Collective to comply with additional  
 21 training requirements, beyond pre-assignment trainings. Tesoro requires completion of specific  
 22 training sessions, unilaterally provides these trainings to Plaintiff and members of the putative  
 23 Classes and Collective, and decide whether the trainings are paid.

24       29. CertifiedSafety's refinery clients, including Tesoro, unilaterally set the schedule,  
 25 shifts, and hours worked by Plaintiff and members of the putative Classes and Collective. The  
 26 refineries, including Tesoro, determine when these workers can clock in, when they can take a meal  
 27 break or rest break (if at all), and when they can clock out. The refineries, including Tesoro, dictate  
 28

1 when they can use the restroom. The refineries, including Tesoro, set the schedules, shifts, and  
 2 hours worked for Plaintiff and members of the putative Classes and Collective so that their work  
 3 coincides with the schedules, shifts, and hours worked for the refineries' in-house employees. The  
 4 refineries, including Tesoro, require Plaintiff and members of the putative Classes and Collective  
 5 to perform pre-shift and post-shift work off-the-clock and without pay, and require these workers  
 6 to work or remain under employer control during meal and rest breaks.

7       30. The refineries, including Tesoro, impose detailed safety protocols for Plaintiff and  
 8 members of the putative Classes and Collective for each project. The refineries, including Tesoro,  
 9 unilaterally determine the safety procedures for the work performed. The refineries, including  
 10 Tesoro, have mandatory safety trainings and set the specific requirements for each task to be done  
 11 in a safe manner. The refineries, including Tesoro, dictate the amount and level, as well as types,  
 12 of personal protective equipment Plaintiff and members of the putative Classes and Collective are  
 13 required to use. The refineries, including Tesoro, specify when the safety equipment can be donned  
 14 and doffed.

15       31. The refineries, including Tesoro, maintain a timekeeping process and track the hours  
 16 worked by Plaintiff and members of the putative Classes and Collective. The refineries, including  
 17 Tesoro, require Plaintiff and members of the putative Classes and Collective to badge in-and-out of  
 18 the refinery sites, using the refineries' badging systems. With this badging system, the refineries,  
 19 including Tesoro, monitor and track the hours worked and the precise movements of members of  
 20 the putative Classes and Collective throughout the massive refinery operations.

21       32. The refineries, including Tesoro, have the power, directly and indirectly, to determine  
 22 and set the rate of pay for Plaintiff and members of the putative Classes and Collective. The  
 23 refineries, including Tesoro, determine, approve, and cap the reimbursement amount paid to  
 24 Plaintiff and members of the putative Classes and Collective for travel. The refineries, including  
 25 Tesoro, determine whether jobs are classified as "commute" jobs, which controls whether Plaintiff  
 26 and members of the putative Classes and Collective are reimbursed for lodging and meals. The  
 27 refineries, including Tesoro, alone determine and set the rate of per diem to cover lodging and meals

expenses. The refineries, including Tesoro, also determine Plaintiff's and putative Classes and Collective members' compensation, if any, for time they spend taking shuttles from location to location within the refinery sites.

4       33. The refineries, including Tesoro, maintain a high degree of control over Safety  
5 Attendant and Safety Foreman staffing for each oil refinery location, determining the number of  
6 labor hours and staffing levels required to perform a project. The refineries, including Tesoro,  
7 require CertifiedSafety to perform work within the labor hours budgeted by the refineries. The  
8 refineries, including Tesoro, specify the staffing, labor budgeting, and labor hours in their contracts  
9 with CertifiedSafety.

10       34. As employers of Plaintiff and members of the putative Classes and Collective  
11 throughout the relevant time periods as outlined below, Defendants, and each of them, are solely,  
12 jointly, and severally liable for back pay and other economic damages, including statutory penalties,  
13 owed to Plaintiff and members of the putative Classes and Collective under common law and by  
14 statute.

15        35. Throughout this Complaint, any reference to the “Defendant” or to “Defendants” is  
16 intended to refer to CertifiedSafety and Tesoro, jointly as employers.

17 || 36. Defendants' annual gross sales exceed \$500,000.

## **JURISDICTION AND VENUE**

19       37.    This Court has federal question jurisdiction over this action pursuant to 28 U.S.C. §  
20 1331. This Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28  
21 U.S.C. § 1337 and Section 16(b) of the FLSA, 29 U.S.C. § 216(b).

22       38.     Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391. A substantial  
23 part of the events or omissions giving rise to Plaintiff's claims occurred in this judicial district.

24       39. Defendants, and each of them, employed Plaintiff, Class, and Collective members in  
25 the State of California. Defendants communicated with Plaintiff and other California Class and  
26 Collective members while they were in California, and induced them to enter into employment  
27 relationships and travel to the refinery locations throughout the United States, including California.

1 Plaintiff and putative Class and Collective members in California enter into employment  
 2 agreements with Tesoro in California. And even when work to be performed at refinery sites was  
 3 outside of California, Tesoro has required Plaintiff and putative Class and Collective members in  
 4 California to complete training in California. Thus, Tesoro has required Plaintiff and putative Class  
 5 and Collective members in California to work in California, and have controlled and dictated the  
 6 terms of such work. On this basis, an employment relationship exists in California between Plaintiff  
 7 and putative California Class and Collective members in California and each of the Defendants.

8 **EQUITABLE TOLLING**

9 40. The limitations period applicable to Plaintiff's individual claims, as well as the claims  
 10 of putative Class and Collective members, against Defendants was tolled from April 21, 2017 until  
 11 the date Plaintiff first initiated this action by the pendency of the class action claims in the related  
 12 case of *Harold Jones, et al. v. CertifiedSafety*, Northern District of California, Court Case Number  
 13 3:17-cv-02229-EMC (filed April 21, 2017).

14 **FACTUAL ALLEGATIONS**

15 **Defendants and their Safety Attendant Employees**

16 41. CertifiedSafety works with refineries, including Tesoro, to provide skilled personnel  
 17 who specialize in planning, implementing, and executing safety protocols for refinery operations.  
 18 CertifiedSafety provides services throughout the United States, including but not limited to  
 19 California, Washington, and Minnesota. These workers are the Plaintiff, Classes, and Collective at  
 20 issue in this case (hereinafter referred to as "Safety Attendants").

21 42. Plaintiff works for Defendants as Safety Attendants.<sup>1</sup> Plaintiff's primary duties  
 22 include, but are not limited to: monitoring and recording air pressure to ensure that oxygen levels  
 23 are safe for other workers at the refinery site; cleaning and organizing the refinery site; monitoring  
 24 and recording the amount of employees entering and exiting the work site; and supervising hot  
 25 work to prevent combustion near refinery sites.

26  
 27 <sup>1</sup> While Plaintiff is a former employee of Defendants, for ease of reading, allegations are presented  
 28 in the present tense.

1 43. Plaintiff, Class, and Collective members are classified as hourly, non-exempt  
2 employees and are paid an hourly rate for their services. Plaintiff worked at various work sites  
3 operated by clients of CertifiedSafety throughout the United States, including but not limited to  
4 California, and Washington.

5 44. Defendants dispatch Safety Attendants to various locations throughout the United  
6 States, including in California, Washington, and Minnesota. For each assignment, Defendants  
7 determine the hourly rate to be paid and the duration of the project.

## **Training Required of Safety Attendants**

9       45. These sophisticated job duties require training. CertifiedSafety requires its Safety  
10 Attendants to undergo mandatory training that consists of two eight-hour days at the beginning of  
11 their employment, as well as an additional eight-hour day of continuing training each year. In  
12 addition to learning about the responsibilities of the Safety Attendant position, this training provides  
13 information on specific CertifiedSafety policies and procedures, such as its meal and rest break  
14 policies, cell phone policies, CertifiedSafety’s Code of Conduct, as well as CertifiedSafety’s sexual  
15 harassment and discrimination policies, just to name a few. This training is described as an  
16 “orientation” to Safety Attendants’ employment with CertifiedSafety, where Safety Attendants fill  
17 out “new hire” paper work such as I-9s and W-4s. This training is important to CertifiedSafety’s  
18 ability to market its services to the oil and drilling industry, because CertifiedSafety represents that  
19 *its* Safety Attendants go through this significant training. As a matter of policy, none of this training  
20 time is compensated, nor are Safety Attendants reimbursed for any expenses relating to this  
21 mandatory training.

22       46. Upon information and belief, Defendants also require Safety Attendants to undergo  
23 training before each job assignment, typically no more than one day of eight hours. These pre-  
24 assignment trainings are conducted by the refineries, including Tesoro, and refineries are  
25 responsible for the content and duration of said training. Safety Attendants' ability to accept the  
26 assignment is conditioned on their completion of the training. These pre-assignment trainings cover  
27 specific topics and issues that the workers will encounter in the particular assignment, and are

1 conducted near the home of the Plaintiff and putative Class and Collective members, prior to their  
2 dispatch to the applicable refinery site. The refineries, including Tesoro, required Plaintiff to  
3 complete pre-assignment trainings in California, typically in Benicia. On information and belief,  
4 other putative Class and Collective members in California are required to complete pre-assignment  
5 training in California prior to their dispatch by Defendants. As a matter of policy, none of this  
6 training time is compensated, nor are Safety Attendants reimbursed for any expenses relating to this  
7 mandatory training.

8       47. Defendants also require Plaintiff and putative Class and Collective members to  
9 complete additional training at the refinery locations during assignments. This time is not  
10 compensated.

## A Typical Day for Safety Attendants

12        48. Safety Attendants work long hours – typically working twelve hours a day for thirteen  
13 consecutive days, followed by one day off, and then another thirteen consecutive days of twelve-  
14 hour shifts. Safety Attendants typically work this schedule until a given project is complete, which  
15 generally lasts between one and three months.

16        49. Safety Attendants generally work one of two twelve-hour shifts in a twenty-four hour  
17 period. For example, one group of Safety Attendants may be scheduled to work from, for example,  
18 7:00 a.m. to 7:00 p.m., and another group of Safety Attendants is scheduled to work from 7:00 p.m.  
19 to 7:00 a.m. These schedules are not set by CertifiedSafety, but by the refineries, including Tesoro,  
20 which CertifiedSafety is contractually obligated to implement. But regardless of which shift Safety  
21 Attendants work, the job duties and responsibilities are the same, as is the process for reporting to  
22 work, beginning the workday, taking meal and rest breaks, and ending the workday.

23        50. Safety Attendants' days begin with a daily commute from their hotel room to a  
24 parking lot.<sup>2</sup> Depending on the facility, the parking lot may be on site or off site. If the parking lot  
25 is off site, Safety Attendants will park their car and put on their fire-retardant protective gear. This

27 <sup>2</sup> More often than not, Safety Attendants work at remote locations requiring considerable travel and  
28 temporary living arrangements.

1 protective gear uniformly includes fire-retardant coveralls or fire-retardant jacket and pants, steel-  
 2 toe boots, hard hat, earplugs, safety goggles, and gloves. The donning process typically takes  
 3 between five and twenty minutes. Once they have donned their protective gear, Safety Attendants  
 4 must wait for a shuttle that transports them to the facility's security gate. The process of waiting for  
 5 a shuttle and then being transported to the facility takes between fifteen and thirty minutes.  
 6 When the parking lot is on site, Safety Attendants must park and observe the same donning process;  
 7 however, instead of taking a shuttle to the security gate, Safety Attendants must traverse a large  
 8 parking lot on foot, after donning their protective gear, to the security gate. For on-site parking  
 9 facilities, the pre-security gate process takes between fifteen and thirty minutes.

10       51. Once they have arrived at the facility, donned their protective gear, and traveled to  
 11 the security gate, Safety Attendants go through a security check. This requires Safety Attendants  
 12 to wait in line while security inspects bags and ensures Safety Attendants are wearing all required  
 13 protective equipment. Indeed, according to Occupational Safety and Health Administration  
 14 (“OSHA”) requirements, Safety Attendants are not permitted to enter a facility unless they are  
 15 wearing their protective gear. *See* 29 CFR 1910.132. This process takes between five and fifteen  
 16 minutes. After Safety Attendants pass through security, they swipe a badge that confirms their right  
 17 to access to the facility and electronically documents the time in which they passed through security.  
 18 Safety Attendants report that to comply with Defendants’ scheduling and pre-shift activity  
 19 requirements, they must have passed through the security gate and badged in at least thirty minutes  
 20 before their scheduled start times.

21       52. Once Safety Attendants go through the security check, they either walk or take a  
 22 shuttle to another location at the facility which typically has a lunch tent or trailer, as well as a  
 23 supervisor’s trailer. This process takes between five and ten minutes. Once at this location, Safety  
 24 Attendants drop off their lunches, obtain and begin to fill out paperwork relating to their workday,  
 25 gather equipment, and receive their job assignments for the day. Often, the equipment Safety  
 26 Attendants need for the day is not at that particular location, and they will have to walk to a different  
 27 part of the facility to obtain the necessary equipment. This equipment ranges from simple (e.g.,  
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1 hammers and brooms) to sophisticated (e.g., respirators, H2S monitors, gas monitors) and  
 2 everything in between (e.g., fire extinguishers, radios, and gas masks). While at the  
 3 lunch/supervisor trailers, Safety Attendants also attend mandatory daily safety meetings that last  
 4 approximately five to ten minutes. All totaled, Safety Attendants spend approximately thirty  
 5 minutes engaged in these activities once they arrive at the lunch/supervisor trailers.

6 53. At some point during the day (but not necessarily when Safety Attendants first report  
 7 to their supervisors for the day), their supervisors document a start time on Technicians' time sheets  
 8 – either by writing down that start time themselves, or by directing Safety Attendants to write down  
 9 a specific start time, regardless of what time Safety Attendants *in fact* began working, and indeed,  
 10 regardless of what time it actually is when the start time is created. Instead, Safety attendants are  
 11 instructed to write down their scheduled start time, which does not account of any of the above-  
 12 described pre-shift activity, but denotes the time at which Safety Attendants were scheduled to start  
 13 working and expected to be at their post performing their assigned safety duties. Indeed,  
 14 CertifiedSafety admits that, as a matter of the refineries' policies, including Tesoro's, it is  
 15 Defendants' expectation that Safety Attendants will only be clocked in for scheduled work time.  
 16 Notably, the time sheets for Plaintiff and other Safety Attendants typically show Safety Attendants  
 17 all beginning their day at the exact same time, and almost always on a round number, e.g., 6:30  
 18 a.m. or 7:00 a.m.

19 54. At this point, Safety Attendants leave the lunch/supervisor trailer location and walk  
 20 to their job post for the day. When at a post, Safety Attendants perform essential safety functions  
 21 requiring constant attention. For example, when on fire watch and monitoring a welding team,  
 22 Safety Attendants ensure no smoldering fires result from cutting or welding metal. Safety  
 23 Attendants on hole watch ensure the safety of the person working in a confined space, while  
 24 monitoring and recording air pressure to ensure oxygen levels are safe. The role of the Safety  
 25 Attendant, and the constant attention demanded by the position, is an essential part of industrial  
 26 maintenance safety programs.

27 55. As a result of these demanding responsibilities, Safety Attendants rarely, if ever, are  
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1 permitted to take meal and rest breaks. This is for several reasons. First, Safety Attendants are  
 2 *always* required to carry their radios, and are *always* on call. It is Defendants' expectation that  
 3 Safety Attendants always answer calls from their supervisors at any time. Thus, no meal or rest  
 4 break is ever duty-free.

5       56. Second, and with respect to meal breaks, food may not be eaten except in designated  
 6 locations – typically the lunch tent. However, walking from a job post to the lunch tenth takes *at*  
 7 *least* ten to fifteen minutes. This travel time is included within their thirty-minute meal breaks.  
 8 Because this travel time is included in the thirty-minute meal period, any lunch Safety Attendants  
 9 take consists of nothing more than a couple minutes to quickly eat some food, sandwiched in  
 10 between walking to and from the lunch tent for the vast majority of their thirty minute break.

11       57. Third, OSHA requirements, as well as Defendants' requirements, insist that much of  
 12 the work performed at these facilities be monitored by Safety Attendants. Thus, Safety Attendants  
 13 cannot abandon the crews under their supervision unless another Safety Attendant relieves them  
 14 (which rarely occurs), regardless of whether it is time to take a meal or rest break. This often results  
 15 in meal and rest breaks never being taken, and to the extent such breaks are even attempted, they  
 16 are not timely. Fourth, and relatedly, Safety Attendants are constantly called on their radios  
 17 whenever they attempt to take a break, because the crew under their supervision needs to resume  
 18 working.

19       58. Despite the fact that Safety Attendants rarely (if ever) take meal or rest breaks,  
 20 Defendants automatically deduct thirty minutes from Safety Attendants' pay as an uncompensated  
 21 meal period. Defendants have no policies, procedures, or practices to ensure meal and rest breaks  
 22 are being taken. Indeed, with the exception of California, CertifiedSafety admitted that Defendants  
 23 did nothing to track or even mark on timesheets whether meal periods were taken until the Fall of  
 24 2017 – a change that was admittedly triggered by the *Harold Jones, et al. v. CertifiedSafety*, Case  
 25 No. 3:17-cv-02229-EMC, lawsuit. Instead, at the end of work shifts, Defendants' supervisors,  
 26 foreman, and managers instruct Safety Attendants to write that they took a meal break at a specific  
 27 time – typically at the four and a half hour mark in their shift. Notably, CertifiedSafety's records  
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1 show that Safety Attendants apparently took meal breaks at the exact same time – often right at the  
 2 four and a half hour mark in their shift – and that time just so happens to be a round number, e.g.,  
 3 11:00 p.m. or 11:30 p.m.

4       59. When shifts are scheduled to end, Safety Attendants may not leave their post until  
 5 another Safety Attendant relieves them. This typically does not occur until after their scheduled  
 6 end times, and Safety Attendants frequently work fifteen minutes to an hour past their scheduled  
 7 end times waiting for relief. Nevertheless, Safety Attendants are expected to clock out when their  
 8 shift is scheduled to end, regardless of when they stopped working.

9       60. At the end of a shift, and once they are relieved by another Safety Attendant and  
 10 debrief with that individual, Safety Attendants walk back to the lunch/supervisor trailer area. This  
 11 walk takes anywhere from ten to thirty minutes. Once at the lunch/supervisor trailers, they return  
 12 their equipment, complete and submit their paperwork for the day, and sign out with their supervisor  
 13 or foreman. Safety Attendants do not write down the actual end time, but instead are instructed by  
 14 Defendants' supervisors and foremen to write down a specific time, or, said supervisors and  
 15 foremen write down this time themselves – a time that usually is the same as their scheduled end  
 16 times, even though the actual end time is much later. Notably, Defendants' managers, foremen and  
 17 supervisors even use white out or erasable pens to alter time records when Safety Attendants do not  
 18 report times as instructed. This applies to start and end times, as well as uncompensated meal  
 19 periods.

20       61. Once Safety Attendants sign out for the day, they observe the same process as their  
 21 pre-shift activity. This includes walking or shuttling from the lunch/supervisor trailers to the  
 22 security gate, going through a security check, walking or shuttling to their car, and doffing their  
 23 equipment.

24       62. All totaled, Safety Attendants work between one hour and fifteen minutes to two and  
 25 a half hours off-the-clock every day – ***not including thirty minutes daily for uncompensated meal***  
 26 ***periods that were never provided.*** Safety Attendants must be parked and begin donning their  
 27 protective gear between one hour and one hour and fifteen minutes before their scheduled start time  
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1 to comply with Defendants' scheduling and pre-shift activity requirements. Likewise, Safety  
 2 Attendants report that they typically do not finish doffing their protective gear until between forty-  
 3 five minutes and one hour and fifteen minutes after their scheduled end time.

4 **Safety Attendants Incur Significant Expenses and Travel Long Distances to Work for  
 5 Defendants, Without Compensation or Adequate Reimbursement**

6 63. Defendants' job sites are in remote locations requiring significant travel. For each  
 7 job, Safety Attendants are assigned to a project at a facility for one to three months. After each job,  
 8 Safety Attendants are laid off. These jobs may be in the same town as the Safety Attendant, or in a  
 9 different town. When jobs are in-town – generally, within a range of 65-75 miles – Defendants do  
 10 not provide any reimbursement for travel or daily per diems as a matter of policy, even though  
 11 commuting to these remote locations often takes an hour or more each way.

12 64. For out-of-town projects, Defendants provide a one-time travel reimbursement and  
 13 daily per diem. However, Defendants do not inquire about the travel expenses in fact incurred, but  
 14 instead tell Safety Attendants how much it will reimburse *before* the project even begins. This one-  
 15 time travel reimbursement is set by Defendants. Defendants set the one-time travel reimbursement  
 16 by simply using the website "MapQuest" to determine the number of miles between the Safety's  
 17 Attendant's residence and the jobsite, and providing the standard IRS mileage rate – nothing more.  
 18 However, some Defendants artificially cap the amount of mileage they will reimburse, and refuse  
 19 to provide the correct IRS rate. No Defendant does anything to make up the difference as a matter  
 20 of policy. Moreover, when a Safety Attendant does not complete the full project – either by being  
 21 fired or because the Safety Attendant voluntarily needed to leave – Defendants withhold travel  
 22 reimbursement *in its entirety*. Regardless, it is the overwhelming experience of Safety Attendants  
 23 that the travel reimbursement provided is not sufficient to cover their travel expenses.

24 65. Additionally, Safety Attendants are not compensated at an hourly rate or otherwise  
 25 for the actual time it takes to travel these long distances. In fact, documents provided by  
 26 CertifiedSafety reveal Defendants' efforts to have Safety Attendants unlawfully waive their right  
 27 to claim travel time compensation when dispatching Safety Attendants, confirming that their failure  
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1 to compensate this time is knowing and willful.

2       66. Likewise, the daily per diem does not come close to reimbursing Safety Attendants  
 3 for daily living expenses. As a preliminary matter, Defendants set the daily per diem – typically  
 4 between \$65 - \$75 a day. On information and belief, Defendants do not conduct any investigations  
 5 or audits to determine whether this amount is sufficient to cover necessarily-incurred expenses. In  
 6 any event, it is plain that \$70 a day is insufficient to cover all necessary living and lodging expenses.  
 7 Hotel costs *alone* far exceed this amount. Indeed, while even the ordinary hotel costs would not be  
 8 covered by this per diem, hotels within driving distance of job sites often raise prices during  
 9 projects, knowing demand is high with an influx of remote workers. Nightly hotel costs are often  
 10 nearly double Safety Attendants' daily per diem. Thus, the per diem not only fails to cover hotel  
 11 costs, but it does not begin to cover other necessary daily living expenses, such as food, toiletries,  
 12 laundry costs, and the like.

13       67. Additionally, Safety Attendants incur numerous expenses to perform their daily  
 14 duties that are not reimbursed. For example, Safety Attendants must purchase fire-retardant  
 15 protective gear, backpacks, radio holsters, gloves, earplugs, clipboards, pens, steel-toe boots, and a  
 16 watch.

17       68. In sum, Safety Attendants:

- 18           a. Are frequently denied compensation for all hours worked, including minimum  
                  wage and overtime for work in excess of eight hours per day and forty hours per  
                  week, as well as double time for work over twelve hours in one day and over eight  
                  hours on the seventh consecutive day of work;
- 19           b. Are not provided with premium pay for missed meal and rest breaks. When  
                  Plaintiff and putative Class members work more than ten hours per day, a second  
                  meal period is regularly not made available to them. Putative Class members,  
                  including Plaintiff, are not provided with premium pay for these missed meal  
                  breaks; and

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c. Are denied reimbursement for work-related travel costs to putative Class and Collective members, including Plaintiff. Defendants also do not reimburse Plaintiff, Class, and Collective members for necessarily incurred business expenses.

69. Defendants are aware that Safety Attendants did not receive timely and compliant meal and rest periods to which they were entitled, and that they were denied compensation for all time worked.

70. Defendants also do not provide putative Class members, including Plaintiff, accurate itemized wage statements as required by California law. The wage statements that they are provided are not accurate because they do not reflect the actual hours worked by Plaintiff and putative Class members. Further, the wage statements are inaccurate because they do not include minimum wage for all hours worked, premium pay for missed breaks, overtime, and double time for all hours worked.

71. Defendants often do not provide putative Class members with full payment of all wages owed at the end of employment. As these workers are owed for off-the-clock work, unpaid overtime, and premium pay when their employment ends, and these amounts remained unpaid under Defendants' policies and practices, Defendants fail to pay all wages due upon termination. As a consequence, Defendants are subject to waiting time penalties.<sup>3</sup>

72. Defendants require Plaintiff and Class members to work at least seven consecutive days, without a day of rest.

73. Plaintiff worked at several refinery sites in California and throughout the United States, including but not limited to in Washington and Minnesota, and his experience with regards

<sup>3</sup> Defendants often promise bonuses for work on holidays as well as overtime and double time for these projects. However, these promises often go unfulfilled, and the employees do not receive all pay owed to them. Moreover, Defendants regularly do not consider these bonuses when calculating the hourly rate, overtime rate, and double time rate for Plaintiffs and putative Class and Collective members. The system Defendants have in place to pay Plaintiffs and other Safety Attendants bonuses does not address this wage deficiency and only further exacerbates the inadequate wages they earn and are owed under the law because such bonuses are not included in the calculation of their regular rate and fail to account for overtime and premium pay owing to such employees.

1 to hours worked, off-the-clock work, meal and rest breaks, and unreimbursed business expenses are  
 2 similar in each instance. Plaintiff is informed, believe, and thereon allege that Defendants' policies  
 3 and practices have at all relevant times been similar for Safety Attendants, regardless of the location  
 4 within the United States, including in California, Washington, and Minnesota. Defendants'  
 5 unlawful conduct has been widespread, repeated, and consistent throughout its work locations in  
 6 the United States, including in California, Washington, and Minnesota. Defendants knew or should  
 7 have known that their policies and practices have been unlawful and unfair.

8 74. Defendants' conduct was willful, carried out in bad faith, and caused significant  
 9 damages to non-exempt hourly employees in an amount to be determined at trial.

10 **COLLECTIVE ALLEGATIONS UNDER THE FLSA**

11 75. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 12 herein.

13 76. Plaintiff brings his FLSA claims as a collective action pursuant to 29 U.S.C. § 216(b)  
 14 as to claims for failing to pay Plaintiff and Collective members for all hours worked, including  
 15 minimum wage, wages at the agreed rate, and overtime compensation for all hours worked over 40  
 16 hours per week, liquidated damages, and attorneys' fees and costs under the FLSA. The FLSA  
 17 Collective that Plaintiff seeks to represent is defined as follows:

18 All current and former hourly, non-exempt Safety Attendants and  
 19 Safety Foremen who worked for CertifiedSafety at an Andeavor f/k/a  
 20 Tesoro Corporation and/or Tesoro Refining & Marketing Company  
 21 LLC facility in the United States during the time period three years  
 22 prior to the filing of this Complaint until the resolution of this action.

23 77. Plaintiff's claims for violations of the FLSA may be brought and maintained as an  
 24 "opt-in" collective action pursuant to Section 216(b) of the FLSA because Plaintiff's FLSA claims  
 25 are similar to the claims of the Collective members.

26 78. The Collective members are similarly situated, as they have substantially similar job  
 27 duties and requirements and were subject to a common policy, practice, or plan that required them  
 28 to perform work without compensation and required them to perform work at an unlawfully reduced  
 payment rate, in violation of the FLSA.

79. Plaintiff is representative of the Collective members and is acting on behalf of their interests, as well as Plaintiff's own interests, in bringing this action.

80. Plaintiff will fairly and adequately represent and protect the interests of Collective members. Plaintiff has retained counsel competent and experienced in employment class action and collective action litigation.

6       81.     The similarly situated Collective members are known to Defendants, are readily  
7 identifiable, and may be located through Defendants' records. These similarly situated employees  
8 may readily be notified of this action, and allowed to "opt-in" to this case pursuant to 29 U.S.C. §  
9 216(b) for the purpose of collectively adjudicating their claims for unpaid wages, liquidated  
10 damages (or, alternatively, interest), and attorneys' fees and costs under the FLSA.

## **CLASS ALLEGATIONS**

12        82. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
13 herein.

14       83. Plaintiff brings this case as a class action on behalf of himself and all others similarly  
15 situated pursuant to Federal Rule of Civil Procedure 23.

16       84. The putative California Class that Plaintiff seeks to represent regarding pre-  
17 assignment training in California is defined as follows:

All current and former Safety Attendants and Safety Foremen who completed training in California prior to any assignment by CertifiedSafety to work for any Andeavor f/k/a Tesoro Corporation and/or Tesoro Refining & Marketing Company LLC refinery during the time period April 21, 2013 until the resolution of this action (the "California Training Class").

22        85.      The putative California Class that Plaintiff seeks to represent regarding claims against  
23      CertifiedSafety and Tesoro for work at oil refineries in California is defined as:

All current and former Safety Attendants and Safety Foremen who worked for CertifiedSafety at any Andeavor f/k/a Tesoro Corporation and/or Tesoro Refining & Marketing Company LLC refinery in California during the time period April 21, 2013 until the resolution of this action (the “California Tesoro Class”).

27 86. The putative Washington Class that Plaintiff seeks to represent regarding claims

1 against CertifiedSafety and Tesoro for work at oil refineries in Washington is defined as:

2 All current and former Safety Attendants and Safety Foremen who  
 3 worked for CertifiedSafety at any Andeavor f/k/a Tesoro Corporation  
 4 and/or Tesoro Refining & Marketing Company LLC refinery in  
 Washington during the time period April 21, 2014 until the resolution  
 of this action (the “Washington Class”).

5 87. The putative Minnesota Class that Plaintiff seeks to represent regarding claims  
 6 against Tesoro for work at oil refineries in Minnesota is defined as:

7 All current and former Safety Attendants and Safety Foremen who  
 8 worked for CertifiedSafety at any Andeavor f/k/a Tesoro Corporation  
 9 and/or Tesoro Refining & Marketing Company LLC refinery in  
 Minnesota during the time period three years prior to the filing of this  
 complaint until the resolution of this action (the “Minnesota Class”).

10 88. The putative Minnesota Class that Plaintiffs seeks to represent regarding claims  
 11 against CertifiedSafety for work at oil refineries in Minnesota is defined as:

12 All current and former Safety Attendants and Safety Foremen who  
 13 worked for CertifiedSafety at any oil refinery in Minnesota during the  
 14 time period three years prior to the filing of this complaint until the  
 resolution of this action (the “Minnesota CertifiedSafety Class”).

15 89. This action has been brought and may properly be maintained as a class action under  
 16 Rule 23:

17 a. **Numerosity:** The potential members of the putative Classes as defined are so  
 18 numerous that joinder of all the members of the putative Classes is impracticable.

19 b. **Commonality:** There are questions of law and fact common to Plaintiff and the  
 20 putative Classes that predominate over any questions affecting only individual  
 21 members of the putative Classes. These common questions of law and fact  
 22 include, but are not limited to:

23 i. Whether Defendants fail to compensate members of the putative Classes  
 24 for all hours worked, including at minimum wage and as overtime  
 25 compensation, in violation of the California Labor Code and Wage  
 26 Orders, as well as Washington’s Minimum Wage Act, Revised Code of  
 27 Washington 49.46, *et seq.* (“WMWA”); the Minnesota Fair Labor

1 Standards Act, Minn. Stat. § 177.21, *et seq.* (“MFLSA”); and the  
2 Minnesota Payment of Wages Act (“MPWA”), Minn. Stat. §§ 181.13 and  
3 181.14;

4 ii. Whether Defendants fail to compensate members of the putative  
5 California Classes for all hours worked, including at minimum wage and  
6 as overtime compensation, in violation of Business and Professions Code  
7 §§ 17200 *et seq.*;

8 iii. Whether Defendants have a policy and/or practice of requiring members  
9 of the putative Classes to be in the control of and/or spend time primarily  
10 for the benefit of Defendants, and perform off-the-clock without  
11 compensation;

12 iv. Whether Defendants fail to properly pay overtime compensation, at either  
13 one and one-half times or double the regular rate of pay, to members of  
14 the putative Classes in violation of the California Labor Code and Wage  
15 Orders, as well as the WMWA and MFLSA;

16 v. Whether Defendants fail to properly pay overtime compensation, at either  
17 one and one-half times or double the regular rate of pay, to putative  
18 California Class members in violation of Business and Professions Code  
19 §§ 17200 *et seq.*;

20 vi. Whether Defendants fail to authorize and permit, make available, and/or  
21 provide members of the putative Classes with timely meal and rest periods  
22 to which they were entitled in violation of the California Labor Code and  
23 Wage Orders, as well as the WMWA;

24 vii. Whether Defendants fail to authorize and permit, make available, and/or  
25 provide putative California Class members with timely meal and rest  
26 periods to which they were entitled in violation of Business and  
27 Professions Code §§ 17200 *et seq.*;

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- viii. Whether Defendants fail to reimburse members of the putative Classes for reasonable and necessary business expenses in violation of the California Labor Code and Wage Orders, as well as the WMWA;
- ix. Whether Defendants fail to reimburse putative Class members for reasonable and necessary business expenses in violation of Business and Professions Code §§ 17200 *et seq.*;
- x. Whether Defendants fail to provide members of the putative Classes with timely, accurate itemized wage statements in violation of the California Labor Code and Wage Orders, as well as the WMWA;
- xi. Whether Defendants fail to provide putative Class members with timely, accurate itemized wage statements in violation of Business and Professions Code §§ 17200 *et seq.*;
- xii. Whether Defendants fail to timely pay putative Class members for all wages owed upon termination of employment in violation of the California Labor Code, as well as the WMWA and MPWA;
- xiii. Whether Defendants fail to timely pay putative California Class members for all wages owed upon termination of employment in violation of Business and Professions Code §§ 17200 *et seq.*;
- xiv. Whether Defendants are liable for penalties to putative California Class members under the PAGA; and
- xv. The proper formula for calculating restitution, damages and penalties owed to Plaintiff and the Classes as alleged herein.

c. **Typicality:** Plaintiff's claims are typical of the claims of the Classes. Defendants' common course of conduct in violation of law as alleged herein has caused Plaintiff and members of the putative Classes to sustain the same or similar injuries and damages. Plaintiff's claims are therefore representative of and co-extensive with the claims of the Classes.

d. **Adequacy of Representation:** Plaintiff is a member of the Classes, do not have any conflicts of interest with other putative Class members, and will prosecute the case vigorously on behalf of the Classes. Counsel representing Plaintiff is competent and experienced in litigating large employment class actions, including wage and hour classes. Plaintiff will fairly and adequately represent and protect the interests of members of the putative Classes.

e. **Superiority of Class Action:** A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all members of the putative Classes is not practicable, and questions of law and fact common to the Classes predominates over any questions affecting only individual members of the Classes. Each member of the putative Classes have been damaged and is entitled to recovery by reason of Defendants' illegal policies and/or practices. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. In the alternative, the Classes may be certified because the prosecution of separate actions by the individual members of the Classes would create a risk of inconsistent or varying adjudication with respect to individual members of the Classes, and, in turn, would establish incompatible standards of conduct for Defendants.

**FIRST CAUSE OF ACTION**  
**Violation of the Fair Labor Standards Act**  
**29 U.S.C. §§ 201, et seq.**  
*(By Plaintiff against Tesoro Defendants)*

90. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

91. The FLSA requires that covered employees receive compensation for all hours worked and overtime compensation not less than one and one-half times the regular rate of pay for all hours worked in excess of forty hours in a work week. 29 U.S.C. § 207(a)(1).

1       92. At all times material herein, Plaintiff and the Collective are covered employees  
2 entitled to the rights, protections, and benefits provided under the FLSA. 29 U.S.C. §§ 203(e) and  
3 207(a).

4 93. Tesoro is a covered employer required to comply with the FLSA's mandates.

5       94.     Tesoro has violated the FLSA with respect to Plaintiff and the Collective, by, *inter*  
6 *alia*, failing to compensate Plaintiff and the Collective for all hours worked and, with respect to  
7 such hours, failing to pay the legally mandated overtime premium for such work and/or minimum  
8 wage. Tesoro has also violated the FLSA by failing to keep required, accurate records of all hours  
9 worked by Plaintiff and the Collective. 29 U.S.C. § 211(c).

10       95. Plaintiff and the Collective are victims of uniform and company-wide compensation  
11 policies. These uniform policies, in violation of the FLSA, have been applied to current and former  
12 non-exempt, hourly Safety Attendants and Safety Foremen of Tesoro, working throughout the  
13 United States.

14       96. Plaintiff and the Collective are entitled to damages equal to the mandated pay,  
15 including minimum wage, straight time, and overtime premium pay within the three years  
16 preceding the filing of the complaint, plus periods of equitable tolling, because Tesoro has acted  
17 willfully and knew or showed reckless disregard for whether the alleged conduct was prohibited by  
18 the FLSA.

19       97.    Tesoro has acted neither in good faith nor with reasonable grounds to believe that its  
20 actions and omissions were not a violation of the FLSA, and as a result thereof, Plaintiff and the  
21 Collective are entitled to recover an award of liquidated damages in an amount equal to the amount  
22 of unpaid overtime pay and/or prejudgment interest at the applicable rate. 29 U.S.C. § 216(b).

23        98.      As a result of the aforesaid violations of the FLSA's provisions, pay, including  
24 minimum wage, straight time, and overtime compensation, has been unlawfully withheld by Tesoro  
25 from Plaintiff and the Collective. Accordingly, Tesoro is liable for unpaid wages, together with an  
26 amount equal as liquidated damages, attorneys' fees, and costs of this action.

27 99. Wherefore, Plaintiff and the Collective request relief as hereinafter provided.

**SECOND CAUSE OF ACTION**  
**Failure to Pay for All Hours Worked Pursuant to Labor Code § 204**  
**For Training in California**  
*By Plaintiff against Defendants on behalf of the California Training Class*

100. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

101. This claim is brought by Plaintiff on behalf of the California Training Class against CertifiedSafety and Tesoro.

102. Defendants willfully engaged in and continue to engage in a policy and practice of not compensating Plaintiff and putative Class members for all hours worked or spent under its control.

103. Defendants require Plaintiff and the putative California Training Class members to attend pre-assignment training sessions in California. These trainings are completely locally in California prior to the dispatch of Plaintiff and the putative California Training Class members to refinery locations throughout the United States for assignments. Defendants require Plaintiff and the putative California Training Class members to complete these trainings in order to accept the applicable job assignments, and the training are required for each job assignment.

104. These pre-assignment training sessions can last up to eight hours, but Plaintiff and the putative California Training Class members are not paid for any of their time spent in them. Additionally, Plaintiff and the putative California Training Class members are not compensated for their expenses incurred traveling to and from the pre-assignment training sessions. As a result, Defendants fail to pay Plaintiff and the putative California Training Class members for all hours worked and fail to track their actual hours worked.

105. Labor Code § 1194(a) provides as follows:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

1       106. Labor Code § 200(a) defines wages as “all amounts for labor performed by  
2 employees of every description, whether the amount is fixed or ascertained by the standard of time,  
3 task, piece, commission basis, or other method of calculation.”

4       107. Labor Code § 1198 makes it unlawful for employers to employ employees under  
5 conditions that violate the Wage Orders.

6       108. IWC Wage Order 16-2001(2)(J) defines hours worked as “the time during which an  
7 employee is subject to the control of an employer, and includes all the time the employee is suffered  
8 or permitted to work, whether or not required to do so.”

9       109. Defendants require Plaintiff and the putative California Training Class members to  
10 work off-the-clock without compensation. In other words, Plaintiff and the putative California  
11 Training Class members are forced to perform work for the benefit of Defendants without  
12 compensation.

13        110. In violation of California law, Defendants knowingly and willfully refuse to perform  
14 their obligations to provide Plaintiff and the putative California Training Class members with  
15 compensation for all time worked. Defendants regularly fail to track the time they actually worked  
16 or to compensate them for hours worked. Therefore, Defendants committed, and continue to  
17 commit, the acts alleged herein knowingly and willfully, and in conscious disregard of the  
18 Plaintiff's and the putative California Training Class members' rights. Plaintiff and the putative  
19 California Training Class are thus entitled to recover nominal, actual, and compensatory damages,  
20 plus interest, attorneys' fees, expenses, and costs of suit.

21       111. As a proximate result of the aforementioned violations, Plaintiff and the putative  
22 Class have been damaged in an amount according to proof at time of trial.

23 112. Wherefore, Plaintiff and the putative Class request relief as hereinafter provided.

### **THIRD CAUSE OF ACTION**

**Failure to Pay Minimum Wages Pursuant to California Labor  
Code §§ 1182.11, 1182.12, 1194, 1197, and 1197.1  
For Training in California**

*(By Plaintiff against Defendants on behalf of the California Training Class)*

27 113. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth

1 herein.

2 114. This claim is brought by Plaintiff on behalf of the California Training Class against  
 3 CertifiedSafety and Tesoro.

4 115. During the applicable statutory period, California Labor Code §§1182.11, 1182.12  
 5 and 1197, and the Minimum Wage Order were in full force and effect and require that Defendants'  
 6 hourly employees receive the minimum wage for all hours worked irrespective of whether  
 7 nominally paid on a piece rate, or any other bases, at the rate of ten dollars and fifty cents (\$10.50)  
 8 per hour commencing January 1, 2017, and at a rate of eleven dollars (\$11.00) per hour commencing  
 9 January 1, 2018.

10 116. "Hours worked" is the time during which an employee is subject to the control of an  
 11 employer, and includes all the time the employee is suffered or permitted to work, whether or not  
 12 required to do so.

13 117. California Labor Code §1194 states:

14 Notwithstanding any agreement to work for a lesser wage, any  
 15 employee receiving less than the legal minimum wage or the legal  
 16 overtime compensation applicable to the employee is entitled to  
 17 recover in a civil action the unpaid balance of the full amount of this  
 minimum wage or overtime compensation, including interest thereon,  
 reasonable attorney's fees, and costs of suit.

18 118. Labor Code §1194.2 provides that, in any action under Section 1194 to recover wages  
 19 because of the payment of a wage less than minimum wage fixed by an order of the commission,  
 20 an employee shall be entitled to recover liquidated damages in an amount equal to the wages  
 21 unlawfully unpaid and interest thereon.

22 119. Defendants have maintained policies and procedures which have created a working  
 23 environment where hourly employees are routinely compensated at a rate that is less than the  
 24 statutory minimum wage. Plaintiff and the putative California Training Class members are required  
 25 to attend pre-assignment training but are not provided as compensation for any of the time that they  
 26 spend in this training.

27 120. As a direct and proximate result of the unlawful acts and/or omissions of Defendants,  
 28

1 Plaintiff and putative California Training Class members have been deprived of minimum wages  
2 in an amount to be determined at trial, and are entitled to a recovery of such amount, plus liquidated  
3 damages, plus interest thereon, attorneys' fees, and costs of suit pursuant to Labor Code §§ 1194,  
4 1194.2 and 1197.1.

5 121. Wherefore, Plaintiff and the putative Class request relief as hereinafter provided.

## **FOURTH CAUSE OF ACTION**

**Failure to Reimburse for Necessary Business Expenditures Pursuant to Labor Code § 2802  
For Training in California**

*(By Plaintiff against Defendants on behalf of the California Training Class)*

9       122. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
10 herein.

11       123. This claim is brought by Plaintiff on behalf of the California Training Class against  
12 CertifiedSafety and Tesoro.

13 124. Defendants do not reimburse Plaintiff and putative Class members for necessary  
14 business expenditures.

15 || 125. Labor Code § 2802 provides, in relevant part:

16 An employer shall indemnify his or her employee for all necessary  
17 expenditures or losses incurred by the employee in direct consequence  
18 of the discharge of his or her duties, or of his or her obedience to the  
19 directions of the employer, even though unlawful, unless the  
20 employee, at the time of obeying the directions, believed them to be  
unlawful. ... For the purposes of this section, the term "necessary  
expenditures or losses" shall include all reasonable costs, including,  
but not limited to, attorney's fees incurred by the employee enforcing  
the rights granted by this section.

126. Defendants regularly require Plaintiff and putative California Training Class  
members to pay out-of-pocket expenses for transportation and food when traveling to pre-  
assignment training sessions in California. Defendants do not reimburse Plaintiff for travel  
expenses.

25        127. Defendants are liable to Plaintiff and the putative California Training Class members  
26 for the unreimbursed expenses and civil penalties, with interest thereon. Furthermore, Plaintiff is  
27 entitled to an award of attorneys' fees and costs as set forth below.

1 128. Wherefore, Plaintiff and the putative Class request relief as hereinafter provided.

2 **FIFTH CAUSE OF ACTION**  
 3 **Failure to Provide Accurate Itemized Wage Statements Pursuant to Labor Code § 226**  
 4 **For Training in California**

4 *(By Plaintiff against Defendants on behalf of the California Training Class)*

5 129. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 6 herein.

7 130. This claim is brought by Plaintiff on behalf of the California Training Class against  
 8 CertifiedSafety and Tesoro.

9 131. Defendants do not provide Plaintiff and putative California Training Class members  
 10 with accurate itemized wage statements as required by California law.

11 132. Labor Code § 226(a) provides:

12 Every employer shall, semimonthly or at the time of each payment of  
 13 wages, furnish each of his or her employees, either as a detachable  
 14 part of the check, draft, or voucher paying the employee's wages, or  
 15 separately when wages are paid by personal check or cash, an accurate  
 16 itemized statement in writing showing (1) gross wages earned, (2)  
 17 total hours worked by the employee, except for any employee whose  
 18 compensation is solely based on a salary and who is exempt from  
 19 payment of overtime under subdivision (a) of Section 515 or any  
 20 applicable order of the Industrial Welfare Commission, (3) the  
 21 number of piece-rate units earned and any applicable piece rate if the  
 22 employee is paid on a piece-rate basis, (4) all deductions, provided  
 23 that all deductions made on written orders of the employee may be  
 24 aggregated and shown as one item, (5) net wages earned, (6) the  
 25 inclusive dates of the period for which the employee is paid, (7) the  
 26 name of the employee and his or her social security number, (8) the  
 27 name and address of the legal entity that is the employer, and (9) all  
 28 applicable hourly rates in effect during the pay period and the  
 corresponding number of hours worked at each hourly rate by the  
 employee. The deductions made from payments of wages shall be  
 recorded in ink or other indelible form, properly dated, showing the  
 month, day, and year, and a copy of the statement or a record of the  
 deductions shall be kept on file by the employer for at least four years  
 at the place of employment or at a central location within the State of  
 California.

25 133. The IWC Wage Orders also establishes this requirement. (See IWC Wage Order 16-  
 26 2001(6).)

27 134. Labor Code § 226(e) provides:

1 An employee suffering injury as a result of a knowing and intentional  
 2 failure by an employer to comply with subdivision (a) is entitled to  
 3 recover the greater of all actual damages or fifty dollars (\$50) for the  
 4 initial pay period in which a violation occurs and one hundred dollars  
 (\$100) per employee for each violation in a subsequent pay period,  
 not exceeding an aggregate penalty of four thousand dollars (\$4,000),  
 and is entitled to an award of costs and reasonable attorney's fees.

5 Plaintiff seeks to recover actual damages, costs and attorneys' fees under this section.

6 135. Defendants do not provide timely, accurate itemized wage statements to Plaintiff and  
 7 putative California Training Class members in accordance with Labor Code § 226(a) and the IWC  
 8 Wage Orders. As a result of the unpaid time for pre-assignment training, the wage statements  
 9 Defendants provide their employees, including Plaintiff and putative California Training Class  
 10 members, do not accurately reflect the actual hours worked, actual gross wages earned, or actual  
 11 net wages earned.

12 136. Defendants are liable to Plaintiff and the putative California Training Class alleged  
 13 herein for the amounts described above in addition to the civil penalties set forth below, with interest  
 14 thereon. Furthermore, Plaintiff is entitled to an award of attorneys' fees and costs as set forth below,  
 15 pursuant to Labor Code § 226(e).

16 137. Wherefore, Plaintiff and the putative Class request relief as hereinafter provided.

17 **SIXTH CAUSE OF ACTION**  
 18 **Waiting Time Penalties Pursuant to Labor Code §§ 201-203**  
 19 **For Training in California**

(By Plaintiff against Defendants on behalf of the California Training Class)

20 138. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 21 herein.

22 139. This claim is brought by Plaintiff on behalf of the California Training Class against  
 23 CertifiedSafety and Tesoro.

24 140. Defendants do not provide Plaintiff and putative California Training Class members  
 25 with their wages when due under California law after their employment with Defendants ends.

26 141. Labor Code § 201 provides:

27 If an employer discharges an employee, the wages earned and unpaid  
 28 at the time of discharge are due and payable immediately.

1 142. Labor Code § 202 provides:

2 If an employee not having a written contract for a definite period quits  
 3 his or her employment, his or her wages shall become due and payable  
 4 not later than 72 hours thereafter, unless the employee has given 72  
 hours previous notice of his or her intention to quit, in which case the  
 employee is entitled to his or her wages at the time of quitting.

5 143. Labor Code § 203 provides, in relevant part:

6 If an employer willfully fails to pay, without abatement or reduction,  
 7 in accordance with Sections 201, 201.5, 202, and 205.5, any wages of  
 8 an employee who is discharged or who quits, the wages of the  
 employee shall continue as a penalty from the due date thereof at the  
 same rate until paid or until an action therefor is commenced; but the  
 wages shall not continue for more than 30 days.

9  
 10 144. Plaintiff and putative California Training Class members left their employment with  
 11 Defendants during the statutory period, at which time Defendants owed them unpaid wages. These  
 12 earned, but unpaid, wages derive from time spent working for the benefit of Defendants, which  
 13 went unrecorded and/or uncompensated.

14 145. Defendants willfully refuse to pay putative Class members all the wages that are due  
 15 and owing to them, in the form of uncompensated off-the-clock time, minimum wage, and  
 16 reimbursement for necessary business expenditures, upon the end of their employment as a result  
 17 of Defendants' willful failure to provide Plaintiff and the putative California Training Class  
 18 members with payment for all hours worked and reimbursement for travel for the required pre-  
 19 assignment training in California. As a result of Defendants' actions, Plaintiff and putative Class  
 20 members have suffered and continue to suffer substantial losses, including lost earnings, and  
 21 interest.

22 146. Defendants' willful failure to pay Plaintiff and putative California Training Class  
 23 members the wages due and owing them constitutes a violation of Labor Code §§ 201-202. As a  
 24 result, Defendants are liable to Plaintiff and putative California Training Class members for all  
 25 penalties owing pursuant to Labor Code §§ 201-203.

26 147. In addition, Labor Code § 203 provides that an employee's wages will continue as a  
 27 penalty up to thirty days from the time the wages were due. Therefore, the Plaintiff and putative

1 California Training Class members are entitled to penalties pursuant to Labor Code § 203, plus  
 2 interest.

3 148. Wherefore, Plaintiff and the Class request relief as hereinafter provided.

4

5 **SEVENTH CAUSE OF ACTION**  
**Failure to Pay for All Hours Worked Pursuant to Labor Code § 204**  
**For Work at Refineries in California**  
 6 *(By Plaintiff against Defendants on behalf of the California Tesoro Class)*

7 149. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 8 herein.

9 150. This claim is brought by Plaintiff on behalf of the California Tesoro Class against  
 10 CertifiedSafety and Tesoro.

11 151. Defendants willfully engaged in and continue to engage in a policy and practice of  
 12 not compensating Plaintiff and putative Class members for all hours worked or spent in its control  
 13 while working at refineries in California.

14 152. Defendants regularly schedule Plaintiff and the putative Class members to work  
 15 twelve-hour shifts. However, Defendants intentionally and willfully require Plaintiff and the  
 16 putative Class members to complete additional work off-the-clock, in excess of twelve hours per  
 17 day. For example, Defendants instruct Safety Attendants to clock in only after they have donned  
 18 personal protection equipment and to clock out before taking off their personal protection  
 19 equipment. Defendants do not compensate Plaintiff and Class members for this time. Moreover,  
 20 Defendants deduct thirty minutes of work for a meal period. However, Plaintiff and putative Class  
 21 members routinely work through this meal period and are not compensated for that work.  
 22 Additionally, Defendants require Plaintiff and the putative Class members to attend training  
 23 sessions, not including pre-assignment training, which often involve lengthy travel to the training  
 24 site, without compensation for the time spent in trainings or traveling to the trainings. As a result,  
 25 Defendants fail to pay Plaintiff and the putative Class members for all hours worked and fail to  
 26 track their actual hours worked.

27 153. Labor Code § 1194(a) provides as follows:

1 Notwithstanding any agreement to work for a lesser wage, any  
 2 employee receiving less than the legal minimum wage or the legal  
 3 overtime compensation applicable to the employee is entitled to  
 recover in a civil action the unpaid balance of the full amount of this  
 minimum wage or overtime compensation, including interest thereon,  
 reasonable attorneys' fees, and costs of suit.

4 154. Labor Code § 200(a) defines wages as “all amounts for labor performed by  
 5 employees of every description, whether the amount is fixed or ascertained by the standard of time,  
 6 task, piece, commission basis, or other method of calculation.”

7 155. Labor Code § 1198 makes it unlawful for employers to employ employees under  
 8 conditions that violate the Wage Orders.

9 156. IWC Wage Order 16-2001(2)(J) defines hours worked as “the time during which an  
 10 employee is subject to the control of an employer, and includes all the time the employee is suffered  
 11 or permitted to work, whether or not required to do so.”

12 157. Defendants require Plaintiff and the Class to work off-the-clock without  
 13 compensation. In other words, Plaintiff and the Class are forced to perform work for the benefit of  
 14 Defendants without compensation.

15 158. In violation of California law, Defendants knowingly and willfully refuse to perform  
 16 their obligations to provide Plaintiff and the putative Class with compensation for all time worked.  
 17 Defendants regularly fail to track the time they actually worked or to compensate them for hours  
 18 worked. Therefore, Defendants committed, and continue to commit, the acts alleged herein  
 19 knowingly and willfully, and in conscious disregard of the Plaintiff's and the putative Class  
 20 members' rights. Plaintiff and the putative Classes are thus entitled to recover nominal, actual, and  
 21 compensatory damages, plus interest, attorneys' fees, expenses, and costs of suit.

22 159. As a proximate result of the aforementioned violations, Plaintiff and the putative  
 23 Classes have been damaged in an amount according to proof at time of trial.

24 160. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.

**EIGHTH CAUSE OF ACTION****Failure to Pay Minimum Wages Pursuant to California Labor Code §§ 1182.11, 1182.12, 1194, 1197, and 1197.1 For Work at Refineries in California**  
(*By Plaintiff against Defendants on behalf of the California Tesoro Class*)

161. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
herein.

162. This claim is brought by Plaintiff on behalf of the California Tesoro Class against  
CertifiedSafety and Tesoro.

163. During the applicable statutory period, California Labor Code §§1182.11, 1182.12  
and 1197, and the Minimum Wage Order were in full force and effect and require that Defendants'  
hourly employees receive the minimum wage for all hours worked irrespective of whether  
nominally paid on a piece rate, or any other bases, at the rate of ten dollars and fifty cents (\$10.50)  
per hour commencing January 1, 2017.

164. "Hours worked" is the time during which an employee is subject to the control of an  
employer, and includes all the time the employee is suffered or permitted to work, whether or not  
required to do so.

165. California Labor Code §1194 states:

166. Notwithstanding any agreement to work for a lesser wage, any  
employee receiving less than the legal minimum wage or the legal  
overtime compensation applicable to the employee is entitled to  
recover in a civil action the unpaid balance of the full amount of this  
minimum wage or overtime compensation, including interest thereon,  
reasonable attorney's fees, and costs of suit.

167. Labor Code §1194.2 provides that, in any action under Section 1194 to recover wages  
because of the payment of a wage less than minimum wage fixed by an order of the commission,  
an employee shall be entitled to recover liquidated damages in an amount equal to the wages  
unlawfully unpaid and interest thereon.

168. Defendants have maintained policies and procedures which have created a working  
environment where hourly employees are routinely compensated at a rate that is less than the  
statutory minimum wage while working at refineries in California. Plaintiff and members of the  
putative Classes frequently work time off-the-clock during rest and meal breaks and go

1 uncompensated for that time. In addition, Safety Attendants are regularly uncompensated for time  
 2 spent donning and doffing safety equipment.

3 168. As a direct and proximate result of the unlawful acts and/or omissions of Defendants,  
 4 Plaintiff and putative Class members have been deprived of minimum wages in an amount to be  
 5 determined at trial, and are entitled to a recovery of such amount, plus liquidated damages, plus  
 6 interest thereon, attorneys' fees, and costs of suit pursuant to Labor Code §§ 1194, 1194.2 and  
 7 1197.1.

8 169. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.

9  
 10 **NINTH CAUSE OF ACTION**  
 11 **Failure to Pay Overtime Wages Pursuant to Labor Code § 510**  
 12 **For Work at Refineries in California**

13 *(By Plaintiff against Defendants on behalf of the California Tesoro Class)*

14 170. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 15 herein.

16 171. This claim is brought by Plaintiff on behalf of the California Tesoro Class against  
 17 CertifiedSafety and Tesoro.

18 172. Defendants do not compensate Plaintiff and putative Class members with the  
 19 appropriate overtime rate, including time and a half and double time, as required by California law,  
 20 for their work at refineries in California. For example, Defendants do not consider bonuses when  
 determining what the overtime and double time rates should be for Plaintiff and putative Class  
 members.

21 173. Labor Code § 510 provides as follows:

22  
 23 Eight hours of labor constitutes a day's work. Any work in excess of  
 24 eight hours in one workday and any work in excess of 40 hours in any  
 25 one workweek and the first eight hours worked on the seventh day of  
 26 work in any one workweek shall be compensated at the rate of no less  
 27 than one and one-half times the regular rate of pay for an employee.  
 Any work in excess of 12 hours in one day shall be compensated at  
 the rate of no less than twice the regular rate of pay for an employee.  
 In addition, any work in excess of eight hours on any seventh day of  
 a workweek shall be compensated at the rate of no less than twice the  
 regular rate of pay of an employee. Nothing in this section requires  
 an employer to combine more than one rate of overtime compensation

1 in order to calculate the amount to be paid to an employee for any hour  
 2 of overtime work.

3 174. The IWC Wage Order 16-2001(3)(A)(1) states:

4 The following overtime provisions are applicable to employees 18  
 5 years of age or over and to employees 16 or 17 years of age who are  
 6 not required by law to attend school and are not otherwise prohibited  
 7 by law from engaging in the subject work. Such employees shall not  
 8 be employed more than eight (8) hours in any workday or more than  
 9 40 hours in any workweek unless the employee receives one and one-  
 10 half (1 ½) times such employee's regular rate of pay for all hours  
 11 worked over 40 hours in the workweek. Eight (8) hours of labor  
 12 constitutes a day's work. Employment beyond eight (8) hours in any  
 13 workday or more than six (6) days in any workweek is permissible  
 14 provided the employee is compensated for such overtime at not less  
 15 than: . . . One and one-half (1 ½) times the employee's regular rate of  
 16 pay for all hours worked in excess of eight (8) hours up to and  
 17 including 12 hours in any workday, and for the first eight (8) hours  
 18 worked on the seventh (7th) consecutive day of work in a workweek;  
 19 and . . . [d]ouble the employee's regular rate of pay for all hours  
 20 worked in excess of 12 hours in any workday and for all hours worked  
 21 in excess of eight (8) hours on the seventh (7th) consecutive day of  
 22 work in a workweek.

23 175. Labor Code § 1194(a) provides as follows:

24 Notwithstanding any agreement to work for a lesser wage, any  
 25 employee receiving less than the legal minimum wage or the legal  
 26 overtime compensation applicable to the employee is entitled to  
 27 recover in a civil action the unpaid balance of the full amount of this  
 28 minimum wage or overtime compensation, including interest thereon,  
 reasonable attorneys' fees, and costs of suit.

176. Labor Code § 200 defines wages as "all amounts for labor performed by employees  
 18 of every description, whether the amount is fixed or ascertained by the standard of time, task, piece,  
 19 commission basis or other method of calculation." All such wages are subject to California's  
 20 overtime requirements, including those set forth above.

177. Defendants regularly require Plaintiff and putative Class members to work in excess  
 18 of eight hours per day and forty hours per week, but do not compensate them at an overtime rate  
 19 for this work. Furthermore, Defendants regularly do not compensate Plaintiff and the putative Class  
 20 members at a double time rate for hours worked in excess of twelve hours each day or after eight  
 21 hours on the seventh consecutive day of work.

22 178. Plaintiff and putative Class members work overtime hours for Defendants without  
 23

1 being paid overtime premiums in violation of the Labor Code, applicable IWC Wage Orders, and  
 2 other applicable law.

3 179. Defendants knowingly and willfully refuse to perform their obligation to compensate  
 4 Plaintiff and the putative Class members for all premium wages for overtime work. As a proximate  
 5 result of the aforementioned violations, Defendants have damaged Plaintiff and the putative Class  
 6 members in amounts to be determined according to proof at time of trial.

7 180. Defendants are liable to Plaintiff and the Classes alleged herein for the unpaid  
 8 overtime and civil penalties, with interest thereon. Furthermore, Plaintiff is entitled to an award of  
 9 attorneys' fees and costs as set forth below.

10 181. Wherefore, Plaintiff and the Classes request relief as hereinafter provided.

11 **TENTH CAUSE OF ACTION**

12 **Failure to Authorize and Permit and/or Make Available Meal and Rest Periods**  
 13 **Pursuant to Labor Code §§ 226.7 and 512**  
**For Work at Refineries in California**

14 (By Plaintiff against Defendants on behalf of the California Tesoro Class)

15 182. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 herein.

16 183. This claim is brought by Plaintiff on behalf of the California Tesoro Class against  
 17 CertifiedSafety and Tesoro.

18 184. Defendants routinely do not make meal periods available to Plaintiff and putative  
 19 Class members working at refineries in California. Despite long work days regularly lasting in  
 20 excess of twelve hours, Plaintiff and putative Class members are often unable to take a meal break,  
 21 are often prevented from timely taking a meal break, and are frequently interrupted during their  
 22 meal breaks. When Plaintiff and putative Class members work more than ten hours in a day,  
 23 Defendants often do not make a second meal period available to them.

24 185. Plaintiff and putative Class members are not paid one hour of premium pay for the  
 25 missed breaks. Rather, Defendants deduct thirty minutes of pay on a daily basis for meal periods,  
 26 even though Plaintiff and putative Class members are routinely denied compliant meal periods.

27 186. Similar to meal periods, Defendants regularly fail to make rest periods available to

1 Plaintiff and putative Class members. Plaintiff's and putative Class members' schedules regularly  
 2 prevent them from taking rest periods throughout the day. When available, if ever, they are often  
 3 not compliant. Instead, they are generally untimely or short. Plaintiff and putative Class members  
 4 do not receive premium pay for their missed breaks as required by California law.

5 187. Labor Code §§ 226.7 and 512 and the applicable Wage Orders require Defendants to  
 6 authorize and permit meal and rest periods to their employees. Labor Code §§ 226.7 and 512 and  
 7 the Wage Orders prohibit employers from employing an employee for more than five hours without  
 8 a meal period of not less than thirty minutes, and from employing an employee more than ten hours  
 9 per day without providing the employee with a second meal period of not less than thirty minutes.  
 10 Labor Code § 226.7 and the applicable Wage Orders also require employers to authorize and permit  
 11 employees to take ten minutes of net rest time per four hours or major fraction thereof of work, and  
 12 to pay employees their full wages during those rest periods. Unless the employee is relieved of all  
 13 duty during the thirty-minute meal period and ten-minute rest period, the employee is considered  
 14 "on duty" and the meal or rest period is counted as time worked under the applicable Wage Orders.

15 188. Under Labor Code § 226.7(b) and the applicable Wage Orders, an employer who fails  
 16 to authorize, permit, and/or make available a required meal period must, as compensation, pay the  
 17 employee one hour of pay at the employee's regular rate of compensation for each workday that  
 18 the meal period was not authorized and permitted. Similarly, an employer must pay an employee  
 19 denied a required rest period one hour of pay at the employee's regular rate of compensation for  
 20 each workday that the rest period was not authorized and permitted and/or not made available.

21 189. Despite these requirements, Defendants knowingly and willfully refuse to perform  
 22 their obligations to authorize and permit and/or make available to Plaintiff and the Classes the  
 23 ability to take the off-duty meal and rest periods to which they were entitled. Defendants fail to  
 24 pay Plaintiff and the Classes one hour of pay for each off-duty meal and/or rest periods that they  
 25 are denied. Defendants' conduct described herein violates Labor Code §§ 226.7 and 512.  
 26 Therefore, pursuant to Labor Code § 226.7(b), Plaintiff and the putative Classes are entitled to  
 27 compensation for the failure to authorize and permit and/or make available meal and rest periods,

1 plus interest, attorneys' fees, expenses and costs of suit.

2 190. As a proximate result of the aforementioned violations, Plaintiff and the putative  
3 Classes have been damaged in an amount according to proof at time of trial.

4 191. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.

5 **ELEVENTH CAUSE OF ACTION**

6 **Failure to Reimburse for Necessary Business Expenditures Pursuant to Labor Code § 2802**  
7 **For Work at Refineries in California**

8 (By Plaintiff against Defendants on behalf of the California Tesoro Class)

9 192. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
herein.

10 193. This claim is brought by Plaintiff on behalf of the California Tesoro Class against  
11 CertifiedSafety and Tesoro.

12 194. Defendants do not reimburse Plaintiff and putative Class members for necessary  
13 business expenditures incurred while working at refineries in California.

14 195. Labor Code § 2802 provides, in relevant part:

15 An employer shall indemnify his or her employee for all necessary  
16 expenditures or losses incurred by the employee in direct consequence  
17 of the discharge of his or her duties, or of his or her obedience to the  
18 directions of the employer, even though unlawful, unless the  
19 employee, at the time of obeying the directions, believed them to be  
unlawful. ... For the purposes of this section, the term "necessary  
expenditures or losses" shall include all reasonable costs, including,  
but not limited to, attorney's fees incurred by the employee enforcing  
the rights granted by this section.

20 196. Defendants regularly require Plaintiff and putative Class members to pay out-of-  
21 pocket expenses for transportation, lodging, and food when traveling to assigned work sites.  
22 Defendants often promise to reimburse Plaintiff for these per diems and travel expenses, but often  
23 fail to do so. Additionally, Defendants attempt to have Plaintiff and putative Class members  
24 illegally waive their right to reimbursement for travel expenses. Even when Defendants reimburse  
25 Plaintiff and Class members for these expenses, the amount reimbursed are often insufficient to  
26 cover the total cost of travel.

27 197. Furthermore, Defendants regularly require Plaintiff and putative Class members to

1 pay out-of-pocket expenses for personal protective equipment, including but not limited to boots,  
 2 and for the cost of washing this equipment. Defendants do not reimburse Plaintiff and the putative  
 3 Class members for these expenditures.

4 198. Defendants are liable to Plaintiff and the putative Class members for the  
 5 unreimbursed expenses and civil penalties, with interest thereon. Furthermore, Plaintiff is entitled  
 6 to an award of attorneys' fees and costs as set forth below.

7 199. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.

8 **TWELFTH CAUSE OF ACTION**  
 9 **Failure to Provide Accurate Itemized Wage Statements Pursuant to Labor Code § 226**  
 For Work at Refineries in California

10 *(By Plaintiff against Defendants on behalf of the California Tesoro Class)*

11 200. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 12 herein.

13 201. This claim is brought by Plaintiff on behalf of the California Tesoro Class against  
 14 CertifiedSafety and Tesoro.

15 202. Defendants do not provide Plaintiff and putative Class members with accurate  
 16 itemized wage statements as required by California law for their work at refineries in California.

17 203. Labor Code § 226(a) provides:

18 Every employer shall, semimonthly or at the time of each payment of  
 19 wages, furnish each of his or her employees, either as a detachable  
 20 part of the check, draft, or voucher paying the employee's wages, or  
 21 separately when wages are paid by personal check or cash, an accurate  
 22 itemized statement in writing showing (1) gross wages earned, (2)  
 23 total hours worked by the employee, except for any employee whose  
 24 compensation is solely based on a salary and who is exempt from  
 25 payment of overtime under subdivision (a) of Section 515 or any  
 26 applicable order of the Industrial Welfare Commission, (3) the  
 27 number of piece-rate units earned and any applicable piece rate if the  
 28 employee is paid on a piece-rate basis, (4) all deductions, provided  
 that all deductions made on written orders of the employee may be  
 aggregated and shown as one item, (5) net wages earned, (6) the  
 inclusive dates of the period for which the employee is paid, (7) the  
 name of the employee and his or her social security number, (8) the  
 name and address of the legal entity that is the employer, and (9) all  
 applicable hourly rates in effect during the pay period and the  
 corresponding number of hours worked at each hourly rate by the  
 employee. The deductions made from payments of wages shall be  
 recorded in ink or other indelible form, properly dated, showing the

1 month, day, and year, and a copy of the statement or a record of the  
 2 deductions shall be kept on file by the employer for at least four years  
 3 at the place of employment or at a central location within the State of  
 4 California.

5 204. The IWC Wage Orders also establishes this requirement. (See IWC Wage Order 16-  
 6 2001(6).)

7 205. Labor Code § 226(e) provides:

8 An employee suffering injury as a result of a knowing and intentional  
 9 failure by an employer to comply with subdivision (a) is entitled to  
 recover the greater of all actual damages or fifty dollars (\$50) for the  
 initial pay period in which a violation occurs and one hundred dollars  
 (\$100) per employee for each violation in a subsequent pay period,  
 not exceeding an aggregate penalty of four thousand dollars (\$4,000),  
 and is entitled to an award of costs and reasonable attorney's fees.

10 Plaintiff seeks to recover actual damages, costs and attorneys' fees under this section.

11 206. Defendants do not provide timely, accurate itemized wage statements to Plaintiff and  
 12 putative Class members in accordance with Labor Code § 226(a) and the IWC Wage Orders. The  
 13 wage statements Defendants provide their employees, including Plaintiff and putative Class  
 14 members, do not accurately reflect the actual hours worked, actual gross wages earned, or actual  
 15 net wages earned.

16 207. Defendants are liable to Plaintiff and the putative Classes alleged herein for the  
 17 amounts described above in addition to the civil penalties set forth below, with interest thereon.  
 18 Furthermore, Plaintiff is entitled to an award of attorneys' fees and costs as set forth below, pursuant  
 19 to Labor Code § 226(e).

20 208. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.

21 **THIRTEENTH CAUSE OF ACTION**

22 **Waiting Time Penalties Pursuant to Labor Code §§ 201-203  
 23 For Work at Refineries in California**

24 (By Plaintiff against Defendants on behalf of the California Tesoro Class)

25 209. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 herein.

26 210. This claim is brought by Plaintiff on behalf of the California Tesoro Class against  
 27 CertifiedSafety and Tesoro.

1       211. Defendants do not provide Plaintiff and putative Class members with their wages for  
 2 their work at refineries in California when due under California law after their employment with  
 3 Defendants ends.

4       212. Labor Code § 201 provides:

5           If an employer discharges an employee, the wages earned and unpaid  
 6 at the time of discharge are due and payable immediately.

7       213. Labor Code § 202 provides:

8           If an employee not having a written contract for a definite period quits  
 9 his or her employment, his or her wages shall become due and payable  
 10 not later than 72 hours thereafter, unless the employee has given 72  
 hours previous notice of his or her intention to quit, in which case the  
 employee is entitled to his or her wages at the time of quitting.

11      214. Labor Code § 203 provides, in relevant part:

12           If an employer willfully fails to pay, without abatement or reduction,  
 13 in accordance with Sections 201, 201.5, 202, and 205.5, any wages of  
 14 an employee who is discharged or who quits, the wages of the  
 15 employee shall continue as a penalty from the due date thereof at the  
 same rate until paid or until an action therefor is commenced; but the  
 wages shall not continue for more than 30 days.

16      215. Plaintiff and putative Class members left their employment with Defendants during  
 17 the statutory period, at which time Defendants owed them unpaid wages. These earned, but unpaid,  
 18 wages derive from time spent working for the benefit of Defendants, which went unrecorded and/or  
 19 uncompensated.

20      216. Defendants willfully refuse to pay putative Class members all the wages that are due  
 21 and owing to them, in the form of uncompensated off-the-clock time, minimum wage, overtime,  
 22 meal and rest period premium pay, and reimbursement for necessary business expenditures upon  
 23 the end of their employment as a result of Defendants' willful failure to provide Plaintiff and the  
 24 putative Class members with payment for all hours worked, overtime, and meal and rest breaks.  
 25 As a result of Defendants' actions, Plaintiff and putative Class members have suffered and continue  
 26 to suffer substantial losses, including lost earnings, and interest.

27      217. Defendants' willful failure to pay Plaintiff and putative Class members the wages

1 due and owing them constitutes a violation of Labor Code §§ 201-202. As a result, Defendants are  
 2 liable to Plaintiff and proposed Class members for all penalties owing pursuant to Labor Code §§  
 3 201-203.

4 218. In addition, Labor Code § 203 provides that an employee's wages will continue as a  
 5 penalty up to thirty days from the time the wages were due. Therefore, the Plaintiff and putative  
 6 Class members are entitled to penalties pursuant to Labor Code § 203, plus interest.

7 219. Wherefore, Plaintiff and the Classes request relief as hereinafter provided.

8 **FOURTEENTH CAUSE OF ACTION**

9 **Failure to Pay Minimum Wage (WMWA 49.46.090, RCW 49.12.150)**  
 For Work at Refineries in Washington

10 *(By Plaintiff against Defendants on behalf of the Washington Class)*

11 220. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 12 herein.

13 221. This claim is brought by Plaintiff on behalf of the Washington Class against  
 14 CertifiedSafety and Tesoro.

15 222. As detailed above, Defendants fail to compensate Plaintiff and putative Class  
 16 members with at least the minimum wage for all hours worked.

17 223. During the applicable statutory period, WMWA 49.46.020(1)(a) was in full force and  
 18 effect and required that Plaintiff and putative Class members receive the minimum wage for all  
 19 hours worked at the rate of nine dollars thirty-two cents (\$9.32) per hour commencing January 1,  
 20 2014, at the rate of nine dollars forty-seven cents (\$9.47) per hour commencing July 1, 2015, at the  
 21 rate of eleven dollars (\$11.00) per hour commencing January 1, 2017, at the rate of eleven dollars  
 22 and fifty cents (\$11.50) per hour commencing January 1, 2018, and at the rate of twelve dollars  
 23 (\$12.00) per hour commencing January 1, 2019.

24 224. Washington Administrative Code ("WAC") 296-126-002 defines hours worked as  
 25 "all hours during which the employee is authorized or required by the employer to be on duty on  
 26 the employer's premises or at a prescribed work place.

27 225. WMWA 49.46.090(1) provides, in relevant part:

1 Any employer who pays any employee less than the amounts to which  
 2 such employee is entitled under or by virtue of this chapter, shall be  
 3 liable to such employee affected for the full amount due to such  
 employee under this chapter, less any amount actually paid to such  
 employee by the employer, and for costs and such reasonable  
 attorney's fees as may be allowed by the court.

4 226. RCW 49.12.150 also provides:

5 If any employee shall receive less than the legal minimum wage,  
 6 except as hereinbefore provided in RCW 49.12.110, said employee  
 7 shall be entitled to recover in a civil action the full amount of the legal  
 minimum wage as herein provided for, together with costs and  
 attorney's fees to be fixed by the court, notwithstanding any agreement  
 8 to work for such lesser wage. In such action, however, the employer  
 shall be credited with any wages which have been paid upon account.

9 227. RCW 49.48.030 allows the court to grant reasonable attorney's fees "[i]n any action  
 10 in which any person is successful in recovering judgment for wages or salary owed" to him or her.

11 228. Because of Defendants' policies and practices with regard to compensating Plaintiff  
 12 and putative Class members, Defendants have failed to pay minimum wages as required by law.  
 13 Plaintiff and putative Class members frequently perform work for which they are compensated  
 14 below the statutory minimum.

15 229. Plaintiff and putative Class members have been deprived of minimum wages in an  
 16 amount to be proven at trial, and are entitled to a recovery of such amount, plus interest thereon,  
 17 attorneys' fees, and costs of suit pursuant to RCW 49.46.090 and 49.48.030.

18 230. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.

19

**FIFTEENTH CAUSE OF ACTION**  
**Failure to Pay Overtime Wages (WMWA 49.46.130)**  
**For Work at Refineries in Washington**  
*(By Plaintiff against Defendants on behalf of the Washington Class)*

22 231. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 23 herein.

24 232. This claim is brought by Plaintiff on behalf of the Washington Class against  
 25 CertifiedSafety and Tesoro.

26 233. As detailed above, Defendants fail to compensate Plaintiff and putative Class  
 27 members with at least the minimum wage for all hours worked.

1       234. Defendants do not compensate Plaintiff and putative Class members with the  
 2 appropriate overtime rate for work performed in excess of forty hours per week.

3       235. WMWA 49.46.130(1) provides that work performed in excess of forty hours in a  
 4 given week must be compensated at a rate of no less than one and one-half times the regular rate of  
 5 pay for an employee.

6       236. Wages are defined in the WMWA 49.46.010(7) as “compensation due to an  
 7 employee by reason of employment, payable in legal tender of the United States or checks on banks  
 8 convertible into cash on demand at full face value, subject to such deductions, charges, or  
 9 allowances as may be permitted by rules of the director.”

10      237. All such wages are subject to Washington’s overtime requirements, including those  
 11 set forth above.

12      238. WMWA 49.46.090(1) provides, in relevant part:

13           Any employer who pays any employee less than the amounts to which  
 14 such employee is entitled under or by virtue of this chapter, shall be  
 15 liable to such employee affected for the full amount due to such  
 16 employee under this chapter, less any amount actually paid to such  
 employee by the employer, and for costs and such reasonable  
 attorney's fees as may be allowed by the court.

17      239. RCW 49.48.030 allows the court to grant reasonable attorney's fees “[i]n any action  
 18 in which any person is successful in recovering judgment for wages or salary owed” to him or her.

19      240. Defendants regularly require Plaintiff and putative Class members to work in excess  
 20 of forty hours per week, but do not compensate them at an overtime rate for all of this work.  
 21 Furthermore, as detailed above, Defendants routinely require Plaintiff and putative Class members  
 22 to work, off the clock, which increases the amount of overtime compensation to which they are due,  
 23 but do not receive.

24      241. Plaintiff and putative Class members have worked overtime hours for Defendants  
 25 without being paid overtime premiums in violation of the WMWA, and other applicable laws of  
 26 the state of Washington.

27      242. Defendants have knowingly and willfully refused to perform their obligation to

1 compensate Plaintiff and the putative Class members for all premium wages for overtime work.

2 243. As a proximate result of the aforementioned violations, Defendants have damaged  
 3 Plaintiff and the putative Class members in amounts to be determined according to proof at time of  
 4 trial. Plaintiff is entitled to recover overtime wages owed, including interest thereon, and attorneys'  
 5 fees and costs pursuant to RCW 49.46.090 and 49.48.030.

6 244. Wherefore, Plaintiff and the Classes request relief as hereinafter provided.

7 **SIXTEENTH CAUSE OF ACTION**  
 8 **Failure to Authorize and Permit and/or Make Available Meal and Rest Breaks**  
 9 **(RCW 49.12.020) For Work at Refineries in Washington**  
*(By Plaintiff against Defendants on behalf of the Washington Class)*

10 245. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 11 herein.

12 246. This claim is brought by Plaintiff on behalf of the Washington Class against  
 13 CertifiedSafety and Tesoro.

14 247. As detailed above, Defendants fail to compensate Plaintiff and putative Class  
 15 members with at least the minimum wage for all hours worked.

16 248. RCW 49.12.010 provides:

17 The welfare of the state of Washington demands that all employees be  
 18 protected from conditions of labor which have a pernicious effect on  
 19 their health. The state of Washington, therefore, exercising herein its  
 police and sovereign power declares that inadequate wages and  
 unsanitary conditions of labor exert such pernicious effect.

20 249. RCW 49.12.020 provides that “[i]t shall be unlawful to employ any person in any  
 21 industry or occupation within the state of Washington under conditions of labor detrimental to their  
 22 health.”

23 250. Pursuant to RCW 49.12.005(5) and WAC 296-126-002(9), conditions of labor  
 24 “means and includes the conditions of rest and meal periods” for employees.

25 251. WAC 296-126-092 provides:

26 (1) Employees shall be allowed a meal period of at least thirty minutes  
 27 which commences no less than two hours nor more than five hours  
 from the beginning of the shift. Meal periods shall be on the  
 employer's time when the employee is required by the employer

1 to remain on duty on the premises or at a prescribed work site in  
 2 the interest of the employer.

3 (2) No employee shall be required to work more than five consecutive  
 4 hours without a meal period.

5 (3) Employees working three or more hours longer than a normal  
 6 work day shall be allowed at least one thirty-minute meal period  
 7 prior to or during the overtime period.

8 (4) Employees shall be allowed a rest period of not less than ten  
 9 minutes, on the employer's time, for each four hours of working  
 10 time. Rest periods shall be scheduled as near as possible to the  
 11 midpoint of the work period. No employee shall be required to  
 12 work more than three hours without a rest period.

13 (5) Where the nature of the work allows employees to take  
 14 intermittent rest periods equivalent to ten minutes for each 4 hours  
 15 worked, scheduled rest periods are not required.

16 252. In the present case, Plaintiff and putative Class members are routinely required to  
 17 work through rest and meal periods. When Plaintiff and putative Class members do receive a meal  
 18 or rest break, these breaks generally are on duty.

19 253. By actions alleged above, Defendants have violated WAC 296-126-092. This, in  
 20 turn, constitutes a violation of RCW 49.12.010 and RCW 49.12.020.

21 254. RCW 49.12.170 provides, in relevant part:

22 any employer employing any person for whom a minimum wage or  
 23 standards, conditions, and hours of labor have been specified, at less  
 24 than said minimum wage, or under standards, or conditions of labor  
 25 or at hours of labor prohibited by the rules and regulations of the  
 26 director ... shall be deemed guilty of a misdemeanor, and shall, upon  
 27 conviction thereof, be punished by a fine of not less than twenty-five  
 28 dollars nor more than one thousand dollars.

29 255. As a result of these unlawful acts, Plaintiff and the Classes have been deprived of  
 30 compensation in amounts to be determined at trial, and Plaintiff and the Classes are entitled to the  
 31 recovery of such damages, including interest thereon, civil penalties, and attorneys' fees and costs  
 32 under RCW 49.48.030 and 49.12.170.

33 256. Wherefore, Plaintiff and the Classes request relief as hereinafter provided.

34  
 35 **SEVENTEENTH CAUSE OF ACTION**  
 36 **Unpaid Wages On Termination (RCW 49.48)**  
 37 **For Work at Refineries in Washington**  
 38 *(By Plaintiff against Defendants on behalf of the Washington Class)*

39 257. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth

1 herein.

2 258. This claim is brought by Plaintiff on behalf of the Washington Class against  
 3 CertifiedSafety and Tesoro.

4 259. As detailed above, Defendants fail to compensate Plaintiff and putative Class  
 5 members with at least the minimum wage for all hours worked.

6 260. Under RCW 49.46.090, employers must pay employees all wages to which they are  
 7 entitled under the Washington Minimum Wage Act. If the employer fails to do so, RCW 49.46.090  
 8 requires that the employer pay the employees the full amount of the statutory minimum wage rate  
 9 less any amount actually paid to the employee.

10 261. By the actions alleged above, Defendants have violated the provisions of RCW  
 11 49.46.090 and the WMWA by failing to pay any wage whatsoever to Plaintiff and putative Class  
 12 members when they work off the clock, miss all or part of their breaks, and are deprived of correct  
 13 overtime compensation.

14 262. As a result of the unlawful acts of Defendants, Plaintiff and the putative Classes have  
 15 been deprived of regular and overtime compensation in an amount to be determined at trial.  
 16 Pursuant to RCW 49.46.090 and 49.48.030, Plaintiff and the Classes are entitled to recover  
 17 attorneys' fees and costs of suit.

18 263. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.

19  
 20 **EIGHTEENTH CAUSE OF ACTION**  
 21 **Willful Refusal to Pay Wages (RCW 49.52.050)**  
**For Work at Refineries in Washington**  
*(By Plaintiff against Defendants on behalf of the Washington Class)*

22 264. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 23 herein.

24 265. This claim is brought by Plaintiff on behalf of the Washington Class against  
 25 CertifiedSafety and Tesoro.

26 266. As detailed above, Defendants fail to compensate Plaintiff and putative Class  
 27 members with at least the minimum wage for all hours worked.

1       267. RCW 49.52.050(2) provides that any employer or agent of any employer who  
2 “[w]illfully and with intent to deprive the employee of any party of his wages, shall pay any  
3 employee a lower wage than the wage such employer is obligated to pay such employee by any  
4 statute, ordinance, or contract” shall be guilty of a misdemeanor.

5        268.    RCW 49.52.070 provides that any employer who violates the foregoing statute shall  
6 be liable in a civil action for twice the amount of wages withheld, together with costs of suit and  
7 reasonable attorney fees.

8       269. An employer's nonpayment of wages is willful and made with intent "when it is the  
9 result of knowing and intentional action and not the result of a bona fide dispute as to the obligation  
10 of payment." *Wingert v. Yellow Freight Sys., Inc.* 146 Wash.2d 841, 849 (2002), quoting *Chelan*  
11 *Cnty. Deputy Sheriffs' Ass'n v. Chelan County*, 109 Wash.2d 282, 300 (1987).

12       270. In the present case, Defendants intentionally fail to pay all wages owed to Plaintiff  
13 and putative Class members, including minimum wage and overtime wages, by requiring Plaintiff  
14 and putative Class members to work during meal and rest periods. Defendants knew or should  
15 have known that their employment policies violate Washington law, and their failure to pay wages  
16 owed to Plaintiff and putative Class members was “willful” under RCW 49.52.050(2).

17 271. Wherefore, Plaintiff and the Classes request relief as hereinafter provided.

**NINETEENTH CAUSE OF ACTION**  
**Violation of Washington's Consumer Protection Act (RCW 19.86)**  
**For Work at Refineries in Washington**  
*(By Plaintiff against Defendants on behalf of the Washington Class)*

21        272. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
22 herein.

23        273. This claim is brought by Plaintiff on behalf of the Washington Class against  
24 CertifiedSafety and Tesoro.

25        274. As detailed above, Defendants fail to compensate Plaintiff and putative Class  
26 members with at least the minimum wage for all hours worked.

1        275. Defendants have engaged in unfair or deceptive acts or practices when they: (i) fail  
2 to pay Plaintiff and Class members wages for off-the-clock work; (ii) prevent Plaintiff and Class  
3 members from taking rest and meal breaks; (iii) fail to pay Plaintiff and Class members for the  
4 periods during which their rest and meal breaks were interrupted; (iv) fail to pay Plaintiff and Class  
5 members for overtime worked; (v) violate RCW 49.46.30; (vi) violate WAC 296-126-023; and (vii)  
6 violate WAC 296-126-092 and 296-125-0287.

7        276. Defendants' unfair or deceptive acts or practices repeatedly occur in Defendants'  
8 trade or business, and are capable of deceiving a substantial portion of the public.

9       277. As a direct and proximate cause of Defendants' unfair or deceptive acts or practices,  
10 Plaintiff and the Class have suffered actual damages, in that Plaintiff and Class members are  
11 wrongfully denied the payment of wages, are forced to work off the clock, and are prevented from  
12 taking rest and meal breaks.

13           278. As a result of Defendants' unfair and deceptive practices, Plaintiff and the Classes  
14 are entitled, pursuant to RCW 19.86.090, to recover treble damages, reasonable attorneys' fees, and  
15 costs.

16 | 279. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.

**TWENTIETH CAUSE OF ACTION**  
**Failure to Pay Minimum Wage (Minn. Stat. § 177.21, *et seq.*)**  
**For Work at Refineries in Minnesota**  
*(By Plaintiff against Defendants on behalf of the Minnesota Class and  
Minnesota CertifiedSafety Class)*

20        280. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
21 herein.

22        281. This claim is brought by Plaintiff on behalf of the Minnesota Class and Minnesota  
23 CertifiedSafety Class against CertifiedSafety and Tesoro.

24        282. As detailed above, Defendants failed to compensate Plaintiff and putative Class  
25 members with at least the minimum wage for all hours worked.

26       283. During the applicable statutory period, the MFLSA, Minn. Stat. § 177.21 et seq., was  
27 in full force and effect and required that Plaintiff and putative Class members receive the Minnesota

1 minimum wage for all hours worked. Under Minn. Stat. § 177.24, Subdivision 1, every large  
 2 employer must pay each employee a minimum wage of \$8.00 per hour beginning August 1, 2014,  
 3 \$9.00 per hour beginning August 1, 2015, \$9.50 per hour beginning August 1, 2016, \$9.65 per hour  
 4 beginning January 1, 2018, and \$9.85 per hour beginning January 1, 2019.

5 284. Plaintiff and putative Class members were directed to work by Defendants and, in  
 6 fact, did work but were not compensated at least at the Minnesota minimum wage rate for all time  
 7 worked. Pursuant to Under Minn. Stat. § 177.24, Subdivision 1, Plaintiff and putative Class  
 8 members are entitled to be compensated at least at the applicable Minnesota-mandated minimum  
 9 wage rate for all time worked.

10 285. Minn. R. 5200.0120, Subpart 1, provides as follows:

11       The minimum wage must be paid for all hours worked. Hours worked  
 12 include training time, call time, cleaning time, waiting time, or any  
 13 other time when the employee must be either on the premises of the  
 14 employer or involved in the performance of duties in connection with  
 his or her employment or must remain on the premises until work is  
 prepared or available. Rest periods of less than 20 minutes may not be  
 deducted from total hours worked.

15 286. Minn. R. 5200.0120, Subpart 2, provides that “[a]n employee who is required to  
 16 remain on the employer's premises or so close to the premises that the employee cannot use the  
 17 time effectively for the employee's own purposes is working while on call.”

18 287. Minn. R. 5200.0120, Subpart 3, provides as follows:

19       Bona fide meal periods are not hours worked. Bona fide meal periods  
 20 do not include rest periods such as coffee breaks or time for snacks.  
 21 The employee must be completely relieved from duty for the purpose  
 22 of eating regular meals. Thirty minutes or more is ordinarily long  
 23 enough for a bona fide meal period. A shorter period may be adequate  
 24 under special conditions. The employee is not completely relieved  
 25 from duty if required to perform any duties, whether active or inactive,  
 26 while eating. It is not necessary that an employee be permitted to leave  
 27 the premises, if the employee is otherwise completely freed from  
 28 duties during the meal period. If the meal period is frequently  
 interrupted by calls to duty, the employee is not relieved of all duties  
 and the meal periods must be considered as hours worked.

1       288. Pursuant to Minn. Stat. § 177.27, Subdivision 8, Plaintiff and the putative Class  
 2 members are entitled to recover unpaid minimum wages under the MFLSA in a civil action. Minn.  
 3 Stat. § 177.27, Subdivision 8 further states:

4                   An employer who pays an employee less than the wages ... to which  
 5 the employee is entitled ... is liable to the employee for the full  
 6 amount of the wages, gratuities, and overtime compensation, less any  
 7 amount the employer is able to establish was actually paid to the  
 8 employee and for an additional equal amount as liquidated damages.  
 9 In addition, in an action under this subdivision the employee may seek  
 10 damages and other appropriate relief provided by subdivision 7 and  
 11 otherwise provided by law.

12       289. Minn. Stat. § 177.27, Subdivision 10 provides that in any action brought pursuant to  
 13 subdivision 8, the court shall order an employer who is found to have violated the MFLSA  
 14 minimum wage requirements “to pay to the employee or employees reasonable costs,  
 15 disbursements, witness fees, and attorney fees.”

16       290. Pursuant to Minn. Stat. § 549.03, when an employer of labor neglects or refuses to  
 17 pay the agreed price, or the reasonable value if there is no agreement, for 30 days after it is due and  
 18 payment is demanded, and the payment is recovered by action, the plaintiff shall be allowed to  
 19 collect and all of the disbursements allowed by law and double the costs.

20       291. Because of Defendants’ policies and practices with regard to compensating Plaintiff  
 21 and putative Class members, Defendants have willfully failed to pay minimum wages as required  
 22 by law. The off-the-clock work—including but not limited to travel time, donning and doffing time,  
 23 and work during meal periods that have been deducted from the nominal hours worked—  
 24 contributes to the actual hours worked by Plaintiff and putative Class members. Moreover,  
 25 Defendants regularly require Plaintiff and putative Class members to pay out-of-pocket for work  
 26 expenses including personal protective equipment and transportation, lodging, and food when  
 27 traveling to assigned work sites, and fail to fully reimburse Plaintiff and putative Class members  
 28 for these expenses, if at all. When the remuneration received by Plaintiff and putative Class  
 members is reduced by unreimbursed out-of-pocket expenses, and then divided by the actual hours  
 worked, Plaintiff and putative Class members are frequently compensated below the statutory  
 minimum.

1 292. Plaintiff and putative Class members have been deprived of minimum wages in an  
2 amount to be proven at trial, and are entitled to a recovery of such amount, plus statutory and  
3 liquidated damages, interest thereon, attorneys' fees, and costs of suit pursuant to Minn. Stat. §  
4 177.25, Minn. Stat. § 177.27, and the related Administrative Rules. Plaintiff is entitled to recovery  
5 of double costs pursuant to Minn. Stat. § 549.03.

6 293. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.

**TWENTY-FIRST CAUSE OF ACTION**

## **Failure to Pay Overtime Wages (Minn. Stat. § 177.21, *et seq.*) For Work at Refineries in Minnesota**

*(By Plaintiff against Defendants on behalf of the Minnesota Class and  
Minnesota CertifiedSafety Class)*

10 294. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
11 herein.

12        295. This claim is brought by Plaintiff on behalf of the Minnesota Class and Minnesota  
13 CertifiedSafety Class against CertifiedSafety and Tesoro.

14 296. Defendants do not compensate Plaintiff and putative Class members with the  
15 appropriate overtime rate for work performed in excess of forty-eight (48) hours per week.

16        297. The MFLSA, Minn. Stat. § 177.25, requires employers to pay their employees for  
17 hours worked in excess of forty eight (48) in an individual work week at a rate no less than one and  
18 one-half times their regular hourly rate of pay.

19 || 298. Minn. R. 5200.0120, Subpart 1, provides as follows:

Hours worked include training time, call time, cleaning time, waiting time, or any other time when the employee must be either on the premises of the employer or involved in the performance of duties in connection with his or her employment or must remain on the premises until work is prepared or available. Rest periods of less than 20 minutes may not be deducted from total hours worked.

24        299. Minn. R. 5200.0120, Subpart 2, provides that “[a]n employee who is required to  
25 remain on the employer's premises or so close to the premises that the employee cannot use the  
26 time effectively for the employee's own purposes is working while on call.”

300. Minn. R. 5200.0120, Subpart 3, provides as follows:

1 Bona fide meal periods are not hours worked. Bona fide meal periods  
 2 do not include rest periods such as coffee breaks or time for snacks.  
 3 The employee must be completely relieved from duty for the purpose  
 4 of eating regular meals. Thirty minutes or more is ordinarily long  
 5 enough for a bona fide meal period. A shorter period may be adequate  
 6 under special conditions. The employee is not completely relieved  
 7 from duty if required to perform any duties, whether active or inactive,  
 8 while eating. It is not necessary that an employee be permitted to leave  
 9 the premises, if the employee is otherwise completely freed from  
 10 duties during the meal period. If the meal period is frequently  
 11 interrupted by calls to duty, the employee is not relieved of all duties  
 12 and the meal periods must be considered as hours worked.

13 301. Minn. R. 5200.0130 defines the regular rate of pay for overtime calculations as “the  
 14 employee's remuneration in any workweek [divided] by the total hours worked.” Minn. R.  
 15 5200.0140 excludes the following payments from the employee's remuneration for overtime  
 16 calculations:

17       A. reimbursement for expenses incurred on the employer's behalf;  
 18       B. premium payments for overtime work or work on Saturdays,  
 19       Sundays, holidays, or scheduled days off, if the premium rate is at  
 20       least 1-1/2 times the normal rate;  
 21       C. bonuses given at the employer's discretion, as to both time and  
 22       amount of payment;  
 23       D. cash or other valuables in the nature of gifts on special occasions;  
 24       E. payments for occasional periods when no work is performed  
 25       including but not limited to vacation, holiday, or illness;  
 26       F. payments made pursuant to a bona fide profit-sharing plan or trust  
 27       or bona fide thrift or savings plan, if amounts are determined  
 28       without regard to production or efficiency; and  
 29       G. contributions irrevocably made by an employer to a trustee or third  
 30       person pursuant to a bona fide plan for providing old-age,  
 31       retirement, life, accident, or health insurance or similar benefits  
 32       for employees.

33 302. All other wages are subject to Minnesota's overtime requirements, including those  
 34 set forth above.

35 303. Minn. R. 5200.0150 requires that overtime “be paid no later than the payday  
 36 immediately following the regular payday for the pay period in which it was earned.”

37 304. Pursuant to Minn. Stat. § 177.27, Subdivision 8, Plaintiff and the putative Class  
 38 members are entitled to recover unpaid overtime wages under the MFLSA in court. Minn. Stat. §  
 39 177.27, Subdivision 8 further states:

40       An employer who pays an employee less than the ... overtime  
 41       compensation to which the employee is entitled ... is liable to the

1 employee for the full amount of the wages, gratuities, and overtime  
 2 compensation, less any amount the employer is able to establish was  
 3 actually paid to the employee and for an additional equal amount as  
 liquidated damages. In addition, in an action under this subdivision  
 by subdivision 7 and otherwise provided by law.

4 305. Minn. Stat. § 177.27, Subdivision 10 provides that in any action brought pursuant to  
 5 Subdivision 8, the court shall order an employer who is found to have violated the MFLSA overtime  
 6 requirements “to pay to the employee or employees reasonable costs, disbursements, witness fees,  
 7 and attorney fees.”

8 306. Pursuant to Minn. Stat. § 549.03, when an employer of labor neglects or refuses to  
 9 pay the agreed price, or the reasonable value if there is no agreement, for 30 days after it is due and  
 10 payment is demanded, and the payment is recovered by action, the plaintiff shall be allowed to  
 11 collect and all of the disbursements allowed by law and double the costs.

12 307. Because of Defendants’ policies and practices with regard to compensating Plaintiff  
 13 and putative Class members, Defendants have willfully failed to pay overtime wages as required  
 14 by law. The off-the-clock work—including but not limited to travel time, donning and doffing time,  
 15 and work during meal periods that have been deducted from the nominal hours worked—  
 16 contributes to the actual hours worked by Plaintiff and putative Class members. The actual hours  
 17 worked exceed the threshold for overtime pay. Moreover, Defendants regularly require Plaintiff  
 18 and putative Class members to pay out-of-pocket for work expenses including personal protective  
 19 equipment and transportation, lodging, and food when traveling to assigned work sites, and fail to  
 20 fully reimburse Plaintiff and putative Class members for these expenses, if at all. When the  
 21 remuneration received by Plaintiff and putative Class members is reduced by unreimbursed out-of-  
 22 pocket expenses, and then divided by the actual hours worked, Defendants fail to compensate by  
 23 Plaintiff and putative Class members at the appropriate overtime rate for all of these hours.

24 308. Plaintiff and putative Class members have been deprived of overtime wages in an  
 25 amount to be proven at trial, and are entitled to a recovery of such amount, plus statutory and  
 26 liquidated damages, interest thereon, attorneys’ fees, and costs of suit pursuant to Minn. Stat. §

1 177.25, Minn. Stat. § 177.27, and the related Administrative Rules. Plaintiff is entitled to recovery  
2 of double costs pursuant to Minn. Stat. § 549.03.

3 309. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.  
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**TWENTY-SECOND CAUSE OF ACTION****Failure to Pay for All Hours Worked (Minn. Stat. § 181.14)  
For Work at Refineries in Minnesota***(By Plaintiff against Defendants on behalf of the Minnesota Class and  
Minnesota CertifiedSafety Class)*

310. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
herein.

311. This claim is brought by Plaintiff on behalf of the Minnesota Class and Minnesota  
CertifiedSafety Class against CertifiedSafety and Tesoro.

312. Defendants willfully engaged in and continues to engage in a policy and practice of  
not compensating Plaintiff and putative Class members for all hours worked or spent in their  
control.

313. Defendants regularly schedule Plaintiff and the putative Class members to work  
twelve-hour shifts. However, Defendants intentionally and willfully require Plaintiff and the  
putative Class members to complete additional work off-the-clock, in excess of twelve hours per  
day. For example, Defendants instruct Safety Attendants to clock in only after they have donned  
personal protection equipment and to clock out before taking off their personal protection  
equipment. Defendants do not compensate Plaintiff and Class members for this time. Moreover,  
Defendants deduct thirty minutes of work for a meal period. However, Plaintiff and putative Class  
members routinely work through this meal period and are not compensated for that work. As a  
result, Defendants fail to pay Plaintiff and the putative Class members for all hours worked and fail  
to track their actual hours worked.

314. Minn. R. 5200.0120, Subpart 1, provides as follows:

Hours worked include training time, call time, cleaning time, waiting  
time, or any other time when the employee must be either on the  
premises of the employer or involved in the performance of duties in  
connection with his or her employment or must remain on the  
premises until work is prepared or available. Rest periods of less than  
20 minutes may not be deducted from total hours worked.

315. Minn. R. 5200.0120, Subpart 2, provides that “[a]n employee who is required to  
remain on the employer's premises or so close to the premises that the employee cannot use the

1 time effectively for the employee's own purposes is working while on call."

2 316. Minn. R. 5200.0120, Subpart 3, provides as follows:

3 Bona fide meal periods are not hours worked. Bona fide meal periods  
 4 do not include rest periods such as coffee breaks or time for snacks.  
 5 The employee must be completely relieved from duty for the purpose  
 6 of eating regular meals. Thirty minutes or more is ordinarily long  
 7 enough for a bona fide meal period. A shorter period may be adequate  
 8 under special conditions. The employee is not completely relieved  
 9 from duty if required to perform any duties, whether active or inactive,  
 while eating. It is not necessary that an employee be permitted to leave  
 the premises, if the employee is otherwise completely freed from  
 duties during the meal period. If the meal period is frequently  
 interrupted by calls to duty, the employee is not relieved of all duties  
 and the meal periods must be considered as hours worked.

10 317. Defendants require Plaintiff and the Classes to work off-the-clock without  
 11 compensation. In other words, Plaintiff and the Classes are forced to perform work for the benefit  
 12 of Defendants without compensation.

13 318. Minn. Stat. § 181.101(a) provides as follows:

14 [E]very employer must pay all wages earned by an employee at least  
 15 once every 31 days on a regular payday designated in advance by the  
 employer regardless of whether the employee requests payment at  
 16 longer intervals. Unless paid earlier, the wages earned during the first  
 half of the first 31-day pay period become due on the first regular  
 17 payday following the first day of work.

18 319. The MPWA, Minn. Stat. § 181.14, Subdivision 1, provides as follows:

19 Wages are earned and unpaid if the employee was not paid for all time  
 20 worked at the employee's regular rate of pay or at the rate required by  
 law, including any applicable statute, regulation, rule, ordinance,  
 21 government resolution or policy, contract, or other legal authority,  
 whichever rate of pay is greater.

22 320. Pursuant to Minn. Stat. § 181.171, Subdivisions 1 and 3, Plaintiff and the putative  
 23 Class members are entitled to recover unpaid wages, civil penalties, compensatory damages,  
 24 injunctive relief, and attorneys' fees and costs in a civil action for violations for Minn. Stat. §§  
 25 181.101 and 181.14.

26 321. Pursuant to Minn. Stat. § 549.03, when an employer of labor neglects or refuses to  
 27 pay the agreed price, or the reasonable value if there is no agreement, for 30 days after it is due and

1 payment is demanded, and the payment is recovered by action, the plaintiff shall be allowed to  
 2 collect and all of the disbursements allowed by law and double the costs.

3 322. In violation of Minnesota law, Defendants knowingly and willfully refuse to perform  
 4 their obligations to provide Plaintiff and the putative Classes with compensation for all time  
 5 worked. Defendants regularly fail to track the time they actually worked or to compensate them  
 6 for hours worked. Therefore, Defendants committed, and continue to commit, the acts alleged  
 7 herein knowingly and willfully, and in conscious disregard of the Plaintiff and the putative Class  
 8 members' rights. Plaintiff and the putative Classes are thus entitled to recover nominal, actual,  
 9 statutory, and compensatory damages, plus interest, attorneys' fees, expenses, and costs of suit,  
 10 pursuant Minn. Stat. § 181.171, Subdivisions 1 and 3. Plaintiff is entitled to recovery of double  
 11 costs pursuant to Minn. Stat. § 549.03.

12 323. As a proximate result of the aforementioned violations, Plaintiff and the putative  
 13 Classes have been damaged in an amount according to proof at time of trial.

14 324. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.

15 **TWENTY-THIRD CAUSE OF ACTION**  
 16 **Unpaid Wages on Termination (Minn. Stat. § 181.14)**  
 17 **For Work at Refineries in Minnesota**

(By Plaintiff against Defendants on behalf of the Minnesota Class and  
 17 Minnesota CertifiedSafety Class)

18 325. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 19 herein.

20 326. This claim is brought by Plaintiff on behalf of the Minnesota Class and Minnesota  
 21 CertifiedSafety Class against CertifiedSafety and Tesoro.

22 327. The MPWA, Minn. Stat. §§ 181.13 and 181.14, requires prompt payment of all wages  
 23 to employees for all hours worked at the end of employment.

24 328. Minn. Stat. § 181.13, Subdivision 1, provides as follows:

25 When any employer employing labor within this state discharges an  
 26 employee, the wages or commissions actually earned and unpaid at  
 27 the time of the discharge are immediately due and payable upon  
 28 demand of the employee. Wages are actually earned and unpaid if the  
 employee was not paid for all time worked at the employee's regular  
 rate of pay or at the rate required by law, including any applicable

1 statute, regulation, rule, ordinance, government resolution or policy,  
 2 contract, or other legal authority, whichever rate of pay is greater.

329. Minn. Stat. § 181.13, Subdivision 1, further provides the following regarding  
 3 discharged employees:

4 If the employee's earned wages and commissions are not paid within  
 5 24 hours after demand, whether the employment was by the day, hour,  
 6 week, month, or piece or by commissions, the employer is in default.  
 7 In addition to recovering the wages and commissions actually earned  
 8 and unpaid, the discharged employee may charge and collect a penalty  
 9 equal to the amount of the employee's average daily earnings at the  
 10 employee's regular rate of pay or the rate required by law, whichever  
 11 rate is greater, for each day up to 15 days, that the employer is in  
 12 default, until full payment or other settlement, satisfactory to the  
 13 discharged employee, is made. ... An employee's demand for payment  
 14 under this section must be in writing but need not state the precise  
 amount of unpaid wages or commissions. An employee may directly  
 seek and recover payment from an employer under this section even  
 if the employee is not a party to a contract that requires the employer  
 to pay the employee at the rate of pay demanded by the employee, so  
 long as the contract or any applicable statute, regulation, rule,  
 ordinance, government resolution or policy, or other legal authority  
 requires payment to the employee at the particular rate of pay. The  
 employee shall be able to directly seek payment at the highest rate of  
 pay provided in the contract or applicable law, and any other related  
 remedies as provided in this section.

15 330. Minn. Stat. § 181.14, Subdivision 1, provides as follows:

16 When any [] employee quits or resigns employment, the wages or  
 17 commissions earned and unpaid at the time the employee quits or  
 18 resigns shall be paid in full not later than the first regularly scheduled  
 19 payday following the employee's final day of employment, unless an  
 20 employee is subject to a collective bargaining agreement with a  
 21 different provision. Wages are earned and unpaid if the employee was  
 22 not paid for all time worked at the employee's regular rate of pay or at  
 23 the rate required by law, including any applicable statute, regulation,  
 rule, ordinance, government resolution or policy, contract, or other  
 legal authority, whichever rate of pay is greater. If the first regularly  
 scheduled payday is less than five calendar days following the  
 employee's final day of employment, full payment may be delayed  
 until the second regularly scheduled payday but shall not exceed a  
 total of 20 calendar days following the employee's final day of  
 employment.

24 331. Minn. Stat. § 181.14, Subdivision 2, provides the following regarding employees who  
 25 quit or resign:

26 Wages or commissions not paid within the required time period shall  
 27 become immediately payable upon the demand of the employee. If the  
 employee's earned wages or commissions are not paid within 24 hours  
 after the demand, the employer shall be liable to the employee for a

penalty equal to the amount of the employee's average daily earnings at the employee's regular rate of pay or the rate required by law, whichever rate is greater, for every day, not exceeding 15 days in all, until such payment or other settlement satisfactory to the employee is made. The employer shall also be liable to the employee for the amount of wages and commissions that are earned and unpaid. An employee's demand for payment under this section must be in writing but need not state the precise amount of unpaid wages or commissions. An employee may directly seek and recover payment from an employer under this section even if the employee is not a party to a contract that requires the employer to pay the employee at the rate of pay demanded by the employee, so long as the contract or any applicable statute, regulation, rule, ordinance, government resolution or policy, or other legal authority requires payment to the employee at the particular rate of pay. The employee shall be able to directly seek payment at the highest rate of pay provided in the contract or applicable law, and any other remedies related thereto as provided in this section.

332. Pursuant to Minn. Stat. § 181.171, Subdivisions 1 and 3, Plaintiff and the putative  
Class members are entitled to recover unpaid wages, civil penalties, compensatory damages,  
injunctive relief, and attorneys' fees and costs in a civil action for violations for Minn. Stat. §§  
181.13 and 181.14.

14       333. By the actions alleged above, Defendants violated the provisions of Minn. Stat. §§  
15 181.13 and 181.14 by failing to pay any wage whatsoever to Plaintiff and putative Class members  
16 when they worked off the clock, missed all or part of their breaks, and were deprived of correct  
17 overtime compensation. Moreover, Defendants regularly required Plaintiff and putative Class  
18 members to pay out-of-pocket for work expenses including personal protective equipment and  
19 transportation, lodging, and food when traveling to assigned work sites, and failed to fully  
20 reimburse Plaintiff and putative Class members for these expenses, if at all. These amounts remain  
21 due upon the separation of employment. Therefore, Defendants committed, and continue to commit,  
22 the acts alleged herein knowingly and willfully, and in conscious disregard of the Plaintiff and the  
23 putative Class members' rights. Plaintiff and the putative Classes are thus entitled to recover  
24 nominal, actual, statutory, and compensatory damages, plus interest, attorneys' fees, expenses, and  
25 costs of suit, pursuant Minn. Stat. § 181.171, Subdivisions 1 and 3.

26 334. As a proximate result of the aforementioned violations, Plaintiff and the putative  
27 Classes have been damaged in an amount according to proof at time of trial.

1 335. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.

2 **TWENTY-FOURTH CAUSE OF ACTION**

3 **Failure to Keep Accurate Payroll Records (Minn. Stat. § 177.30)**

4 **For Work at Refineries in Minnesota**

(By Plaintiff against Defendants on behalf of the Minnesota Class and  
Minnesota CertifiedSafety Class)

5 336. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
herein.

7 337. This claim is brought by Plaintiff on behalf of the Minnesota Class and Minnesota  
8 CertifiedSafety Class against CertifiedSafety and Tesoro.

9 338. Defendants do not maintain accurate payroll records for Plaintiff and putative Class  
10 members as required by Minnesota law.

11 339. Minn. Stat. § 177.30(a) requires every employer subject to Minn. Stat. §§ 177.21-  
12 177.44 to make and keep records of (1) the name, address, and occupation of each employee; (2)  
13 the rate of pay, and the amount paid each pay period to each employee; (3) the hours worked each  
14 day and each workweek by the employee; and (4) other information as necessary and appropriate.  
15 The records must be kept for three years in or near the premises where an employee works.

16 340. Pursuant to Minn. Stat. § 177.30(b), the Commissioner of the Minnesota Department  
17 of Labor and Industry (the “Commissioner”) may fine an employer up to \$1,000 for each failure to  
18 maintain payroll records as required. In determining the amount of a civil, the size of the employer's  
19 business and the gravity of the violation shall be considered.

20 341. Pursuant to Minn. Stat. § 177.27, Subdivision 7, the Commissioner may order  
21 employers who violate Minn. Stat. § 177.30 and other Minnesota wage and hour laws to pay civil  
22 penalties, attorneys' fees, and other appropriate relief. Additionally, any employer who is found by  
23 the Commissioner to have repeatedly or willfully violated the provisions in Minn. Stat. §§ 177.21-  
24 177.44, including Minn. Stat. § 177.30, shall be subject to a civil penalty of up to \$1,000 for each  
25 violation for each employee.

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342. Pursuant to Minn. Stat. § 177.27, Subdivision 8, employees may seek damages and other appropriate relief that may alternatively be sought by the Commissioner under Minn. Stat. § 177.27, Subdivision 7 and as otherwise provided by law.

4       343. Minn. Stat. § 177.27, Subdivision 10 provides that in any action brought pursuant to  
5 Minn. Stat. § 177.27, Subdivision 8, the court shall order an employer who is found to be in  
6 violation “to pay to the employee or employees reasonable costs, disbursements, witness fees, and  
7 attorney fees.”

8       344. Defendants do not maintain accurate payroll records for Plaintiff and putative Class  
9 members in accordance with Minn. Stat. § 177.30(a). The payroll records for Plaintiff and putative  
10 Class members do not accurately reflect the actual hours worked or the actual rate of pay.

11       345. Defendants are liable to Plaintiff and the putative Classes alleged herein for the  
12 penalties described above in an amount according to proof at time of trial. Furthermore, Plaintiff is  
13 entitled to an award of attorneys' fees and costs as set forth below, pursuant to Minn. Stat. § 177.27,  
14 Subdivision 10.

15 346. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided

**TWENTY-FIFTH CAUSE OF ACTION**  
Violation of California Business and Professions Code § 17200, *et seq.*

18 347. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
19 herein.

20       348. This claim is brought by Plaintiff on behalf of the California Training Class and the  
21 California Tesoro Class against CertifiedSafety and Tesoro.

22       349. California Business and Professions Code § 17200, et seq. (the “UCL”) prohibits  
23       unfair competition in the form of any unlawful, unfair, or fraudulent business acts or practices.

24       350. Business and Professions Code § 17204 allows a person injured by the unfair business  
25 acts or practices to prosecute a civil action for violation of the UCL.

26       351. Labor Code § 90.5(a) states it is the public policy of California to vigorously enforce  
27 minimum labor standards in order to ensure employees are not required to work under substandard

1 and unlawful conditions, and to protect employers who comply with the law from those who attempt  
 2 to gain competitive advantage at the expense of their workers by failing to comply with minimum  
 3 labor standards.

4 352. Defendants have committed acts of unfair competition as defined by the UCL, by  
 5 engaging in the unlawful, unfair, and fraudulent business acts and practices described in this  
 6 Complaint, including, but not limited to:

- 7 a. violations of Labor Code § 1194 and IWC Wage Order 16-2001 pertaining to  
   8 payment of wages, including minimum wage, for all hours worked;
- 9 b. violations of Labor Code § 510 and Wage Order 16-2001 pertaining to overtime;
- 10 c. violations of Labor Code §§ 226.7 and 512 and Wage Order 16-2001 pertaining  
   11 to meal and rest breaks;
- 12 d. violations of Labor Code § 226 regarding accurate, timely itemized wage  
   13 statements;
- 14 e. violations of Labor Code § 2802 regarding indemnification for necessary  
   15 business expenditures; and
- 16 f. violations of Labor Code §§ 201-203.

17 353. The violations of these laws and regulations, as well as of the fundamental California  
 18 public policies protecting wages, serve as unlawful predicate acts and practices for purposes of  
 19 Business and Professions Code §§ 17200 et seq.

20 354. The acts and practices described above constitute unfair, unlawful, and fraudulent  
 21 business practices, and unfair competition, within the meaning of Business and Professions Code  
 22 §§ 17200 et seq. Among other things, the acts and practices have taken from Plaintiff and the Class  
 23 wages rightfully earned by them, while enabling Defendants to gain an unfair competitive  
 24 advantage over law-abiding employers and competitors.

25 355. Business and Professions Code § 17203 provides that a court may make such orders  
 26 or judgments as may be necessary to prevent the use or employment by any person of any practice  
 27 which constitutes unfair competition. Injunctive relief is necessary and appropriate to prevent

1 Defendants from repeating the unlawful, unfair, and fraudulent business acts and practices alleged  
 2 above.

3 356. As a direct and proximate result of the aforementioned acts and practices, Plaintiff  
 4 and the Class members have suffered a loss of money and property, in the form of unpaid wages  
 5 which are due and payable to them.

6 357. Business and Professions Code § 17203 provides that the Court may restore to any  
 7 person in interest any money or property which may have been acquired by means of such unfair  
 8 competition. Plaintiff and the Classes are entitled to restitution pursuant to Business and  
 9 Professions Code § 17203 for all wages and payments unlawfully withheld from employees during  
 10 the four-year period prior to the filing of this Complaint. Plaintiff's success in this action will  
 11 enforce important rights affecting the public interest and in that regard Plaintiff sues on behalf of  
 12 themselves as well as others similarly situated. Plaintiff and putative Class members seek and are  
 13 entitled to unpaid wages, declaratory and injunctive relief, and all other equitable remedies owing  
 14 to them.

15 358. Plaintiff herein takes upon himself enforcement of these laws and lawful claims.  
 16 There is a financial burden involved in pursuing this action, the action is seeking to vindicate a  
 17 public right, and it would be against the interests of justice to penalize Plaintiff by forcing him to  
 18 pay attorneys' fees from the recovery in this action. Attorneys' fees are appropriate pursuant to  
 19 Code of Civil Procedure §1021.5 and otherwise.

20 359. Wherefore, Plaintiff and the putative Classes request relief as hereinafter provided.

21 **TWENTY-SIXTH CAUSE OF ACTION**  
 22 **Penalties Pursuant to § 2699(a) of the Private Attorneys General Act**

23 360. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
 24 herein.

25 361. This claim is brought by Plaintiff on behalf of the California Training Class, the  
 26 California CertifiedSafety Class, and the California Tesoro Class against CertifiedSafety and  
 27 Tesoro.

1 362. Labor Code § 2699(a) provides:

2 Notwithstanding any other provision of law, any provision of this  
 3 code that provides for a civil penalty to be assessed and collected by  
 4 the Labor and Workforce Development Agency or any of its  
 5 departments, divisions, commissions, boards, agencies or employees,  
 6 for a violation of this code, may, as an alternative, be recovered  
 7 through a civil action brought by an aggrieved employee on behalf of  
 8 himself or herself and other current or former employees.

9 363. Labor Code § 203 provides, in relevant part:

10 If an employer willfully fails to pay, without abatement or reduction,  
 11 in accordance with Sections 201, 201.5, 202, and 205.5, any wages of  
 12 an employee who is discharged or who quits, the wages of the  
 13 employee shall continue as a penalty from the due date thereof at the  
 14 same rate until paid or until an action therefore is commenced; but the  
 15 wages shall not continue for more than 30 days.

16 364. Labor Code § 226(a) provides:

17 Every employer shall, semimonthly or at the time of each payment of  
 18 wages, furnish each of his or her employees, either as a detachable  
 19 part of the check, draft, or voucher paying the employee's wages, or  
 20 separately when wages are paid by personal check or cash, an accurate  
 21 itemized statement in writing showing (1) gross wages earned, (2)  
 22 total hours worked by the employee, except for any employee whose  
 23 compensation is solely based on a salary and who is exempt from  
 24 payment of overtime under subdivision (a) of Section 515 or any  
 25 applicable order of the Industrial Welfare Commission, (3) the  
 26 number of piece-rate units earned and any applicable piece rate if the  
 27 employee is paid on a piece-rate basis, (4) all deductions, provided  
 28 that all deductions made on written orders of the employee may be  
 aggregated and shown as one item, (5) net wages earned, (6) the  
 inclusive dates of the period for which the employee is paid, (7) the  
 name of the employee and his or her social security number, (8) the  
 name and address of the legal entity that is the employer, and (9) all  
 applicable hourly rates in effect during the pay period and the  
 corresponding number of hours worked at each hourly rate by the  
 employee. The deductions made from payments of wages shall be  
 recorded in ink or other indelible form, properly dated, showing the  
 month, day, and year, and a copy of the statement or a record of the  
 deductions shall be kept on file by the employer for at least four years  
 at the place of employment or at a central location within the State of  
 California.

365. Labor Code § 551 provides:

Every person employed in any occupation of labor is entitled to one  
 day's rest therefrom in seven.

1 366. Labor Code § 552 provides:

2 No employer of labor shall cause his employees to work more than six  
 3 days in seven.

4 367. Labor Code § 558(a) provides:

5 (a) Any employer or other person acting on behalf of an employer  
 6 who violates, or causes to be violated, a section of this chapter or  
 7 any provision regulating hours and days of work in any order of  
 the Industrial Welfare Commission shall be subject to a civil  
 penalty as follows:

8 (1) For any initial violation, fifty dollars (\$50) for each underpaid  
 9 employee for each pay period for which the employee was  
 underpaid in addition to an amount sufficient to recover  
 underpaid wages.

10 (2) For each subsequent violation, one hundred dollars (\$100) for  
 11 each underpaid employee for each pay period for which the  
 12 employee was underpaid in addition to an amount sufficient to  
 recover underpaid wages.

13 (3) Wages recovered pursuant to this section shall be paid to the  
 14 affected employee.

15 368. Plaintiff seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by  
 16 Defendants, as alleged above, to timely pay all wages owed to Plaintiff and each putative Class  
 17 member in compliance with Labor Code §§ 201-202 in the amounts established by Labor Code §  
 18 203. Plaintiff seeks such penalties as an alternative to the penalties available under Labor Code §  
 19 203, as prayed for herein.

20 369. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure  
 21 by Defendants, alleged above, to provide Plaintiff and each Class member an accurate, itemized  
 22 wage statement in compliance with Labor Code § 226(a) in the amounts established by Labor Code  
 23 § 226(e). Plaintiff seeks such penalties as an alternative to the penalties available under Labor Code  
 24 § 226(e), as prayed for herein.

25 370. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure  
 26 by Defendants, alleged above, to provide Plaintiff and each Class member compliant meal and rest  
 27 periods in compliance with Labor Code § 512.

1       371. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each violation  
2 of Labor Code § 510, alleged above, as well as any provision regulating hours and days of work in  
3 any order of the IWC.

4 372. Plaintiff also seeks civil penalties pursuant to Labor Code § 2699(a) for each failure  
5 by Defendants, alleged above, to provide Plaintiff and each Class member one day of rest therefrom  
6 seven days of work in compliance with Labor Code §§ 551 and 552.

7       373. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and  
8 Workforce Development Agency (“LWDA”) with notice of his intention to file this claim. Sixty-  
9 five calendar days have passed without notice from the LWDA. Plaintiff satisfied the  
10 administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

11       374. Plaintiff seeks the aforementioned penalties on behalf of the State, other aggrieved  
12 employees, and himself as set forth in Labor Code § 2699(g)(i).

13       375. Defendants are liable to Plaintiff, the putative Class, and the State of California for  
14 the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an  
15 award of attorneys' fees and costs as set forth below.

16       376. Wherefore, Plaintiff and the aggrieved employees request relief as hereinafter  
17 provided.

**TWENTY-SEVENTH CAUSE OF ACTION**  
Penalties Pursuant to § 2699(f) of the Private Attorneys General Act

20           377. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth  
21 herein.

22       378. This claim is brought by Plaintiff on behalf of the California Training Class, the  
23 California CertifiedSafety Class, and the California Tesoro Class against CertifiedSafety and  
24 Tesoro.

25 | 379. Labor Code § 2699(f) provides:

26 For all provisions of this code except those for which a civil penalty  
27 is specifically provided, there is established a civil penalty for a  
28 violation of these provisions, as follows: . . . (2) If, at the time of the  
alleged violation, the person employs one or more employees, the civil

penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

380. To the extent than any violation alleged herein does not carry penalties under Labor Code § 2699(a), Plaintiff seeks civil penalties pursuant to Labor Code § 2699(f) for Plaintiff and Class members each pay period in which he or she was aggrieved, in the amounts established by Labor Code § 2699(f).

381. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff has provided the LWDA with notice of his intention to file this claim. Sixty-five calendar days have passed without notice from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

382. Plaintiff seeks the aforementioned penalties on behalf of the State, other aggrieved employees, and themselves as set forth in Labor Code § 2699(g)(i).

383. Defendants are liable to Plaintiff, the putative Class, and the State of California for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

384. Wherefore, Plaintiff and the aggrieved employees request relief as hereinafter provided.

## **PRAAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief as follows:

- a) Damages and restitution according to proof at trial for all unpaid wages and other injuries, as provided by the FLSA, California Labor Code, WMWA, MFLSA, MPWA, and other laws of the States of California, Washington, and Minnesota;
- b) For a declaratory judgment that Defendants have violated the FLSA, California Labor Code, WMWA, MFLSA, MPWA, the laws of the States of California, Washington, and Minnesota, and public policy as alleged herein;
- c) For a declaratory judgment that Defendants have violated the UCL, California Business

1 and Professions Code § 17200 *et seq.*, as a result of the aforementioned violations of the  
 2 California Labor Code and of California public policy protecting wages;

3 d) For preliminary, permanent, and mandatory injunctive relief prohibiting Defendants,  
 4 their officers, agents, and all those acting in concert with them from committing in the  
 5 future those violations of law herein alleged;

6 e) For an equitable accounting to identify, locate, and restore to all current and former  
 7 employees the wages they are due, with interest thereon;

8 f) For an order awarding Plaintiff and the Classes and Collective members compensatory  
 9 damages, including lost wages, earnings, liquidated damages, and other employee  
 10 benefits, restitution, recovery of all money, actual damages, and all other sums of money  
 11 owed to Plaintiff and members of the Classes, together with interest on these amounts,  
 12 according to proof;

13 g) For an order awarding Plaintiff, Classes, and members of the Collective civil penalties  
 14 pursuant to the FLSA, California Labor Code, WMWA, MFLSA, MPWA, and the laws  
 15 of the States of California, Washington, and Minnesota, with interest thereon;

16 h) For an award of reasonable attorneys' fees as provided by the FLSA, California Labor  
 17 Code, California Code of Civil Procedure § 1021.5, WMWA, MFLSA, MPWA, the laws  
 18 of the States of California, Washington, and Minnesota, and/or other applicable law;

19 i) For all costs of suit;

20 j) For interest on any damages and/or penalties awarded, as provided by applicable law;  
 21 and

22 k) For such other and further relief as this Court deems just and proper.

23  
 24 Dated: March 12, 2019  
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 26  
 27  
 28

1 Respectfully submitted,

2 /s/ Carolyn H. Cottrell  
3 Carolyn H. Cottrell  
4 David C. Leimbach  
5 Michelle S. Lim  
6 Scott L. Gordon  
7 SCHNEIDER WALLACE  
8 COTTRELL KONECKY  
9 WOTKYNS LLP

10 Attorneys for Plaintiff, the Putative Classes  
11 and Collective

12 **DEMAND FOR JURY TRIAL**

13 Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff is entitled to  
14 a jury.

15 Dated: March 12, 2019

16 Respectfully submitted,

17 /s/ Carolyn H. Cottrell  
18 Carolyn H. Cottrell  
19 David C. Leimbach  
20 Michelle S. Lim  
21 Scott L. Gordon  
22 SCHNEIDER WALLACE  
23 COTTRELL KONECKY  
24 WOTKYNS LLP

25 Attorneys for Plaintiff, the Putative Classes  
26 and Collective